

Getting a CLUE the Hard Way

By Farah Nourmand, Esq.

In 2000, James Mitchell bought a property in Los Angeles and insured it through United National Insurance Company (“United National”). During the policy period, the structure on the property was destroyed by arson. In the ensuing investigation, United National discovered several misrepresentations in Mitchell’s application for insurance and rescinded the policy. In his application, Mitchell had stated that the structure was larger than it actually was; generated more income than it actually did; and was not insured, even though it was covered by the California FAIR plan - an insurer of “last resort.”

In a March 8, 2005 California Court of Appeals decision regarding this incident (*Mitchell v. United National Insurance Company*), the Judge ruled that an insurance company was allowed to cancel a fire insurance policy after the policy was issued if material misrepresentations were made on the policy application. The judge concluded that an insurer has no duty to investigate the truth of the representations made in an insurance policy application, but can deny coverage when the truth is discovered.

The insurance industry has reported that 1 in 5 people on average tell the truth when applying for insurance. So what happens when a home seller fails to disclose a material fact such as a prior insurance loss on their property? If these undisclosed prior losses eventually render the home ineligible for coverage, then (upon discovery of these undisclosed losses) the insurance company can exercise their right to cancel the insurance policy or deny future claims.

Often, real estate agents find themselves representing the following types of sellers: Mr. & Mrs. Smith

who don’t remember making any claims to their homeowners insurance; Mr. Fox who opts not to remember claims he made, for fear of affecting his selling price; or Ms. Investor who has never lived in the property and does not know its claim/loss history.

There are ways to minimize such insurance non-disclosure headaches. Your clients can get the full story on a home’s insurance loss history with a C.L.U.E. Risk Only Report - the best method for satisfying the contractual obligation that the seller has to disclose loss history claims. Property I.D. is the only authorized distributor of C.L.U.E. Risk Only Reports in California.

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