



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

## **BULLETIN 2025-7**

**TO: All Property and Casualty Insurance Companies Handling Smoke Damage Claims for Residential and/or Commercial Properties Located in California Wildfire Areas and Other Interested Persons**

**FROM: Teresa Campbell, Deputy Commissioner and General Counsel**

**DATE: March 7, 2025**

**RE: Insurance Coverage for Smoke Damage and Guidance for Proper Handling of Smoke Damage Claims for Properties Located in or near California Wildfire Areas**

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This Bulletin states the California Department of Insurance's position on coverage for smoke damage claims in light of recent court cases and the Department's expectations with regard to how insurance companies process and pay smoke damage claims as a result of wildfires, including the recent Southern California wildfires.

### **Recent Cases Did Not Remove Coverage for Smoke Damage Claims**

The Department is aware of recent cases<sup>1</sup> interpreting "direct physical loss of or damage to" property, or similar insuring language, in the context of claims for smoke damage. These recent cases do not support the position that smoke damage is never covered as a matter of law. Rather, the California Supreme Court's decision in *Another Planet* confirms that smoke damage can be covered where a policy insures against "direct physical loss of or damage to" property, or substantially similar terms.<sup>2</sup> The California Court of Appeal's holding in *Gharibian* is limited to the facts presented in that

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<sup>1</sup> *Another Planet Entertainment, LLC v. Vigilant Insurance Company* (Cal. Supreme Ct., 2024) 15 Cal.5th 1106; *Gharibian v. Wawanesa General Insurance Company* (Cal. Ct. of Appeal, 2<sup>nd</sup> Dist., Div. 2, 2025) 2025 WL 426092; and *Bottega, LLC v. National Surety Corporation-Chicago, IL* (N.D. Cal., 2025) 2025 WL 71989.

<sup>2</sup> *Another Planet*, *supra*, 15 Cal.5th at 1117 ("Under California law, direct physical loss or damage to property requires a distinct, demonstrable, physical alteration to property. The physical alteration need not be visible to the naked eye, nor must it be structural, but it must result in some injury to or impairment of the property as property.")

case,<sup>3</sup> and therefore does not conflict with *Another Planet*. The *Gharibian* decision held that the plaintiffs' smoke damage evidence was not sufficient to establish coverage based on the specific facts of plaintiffs' claim,<sup>4</sup> and should not be interpreted as supporting denial of coverage for smoke damage in all instances as a matter of law.

Whether a particular claim for smoke damage is covered depends on the specific policy language and the unique facts of each claim. The Department will safeguard consumers by requiring insurers to handle smoke damage claims in compliance with all applicable laws, regulations, and best practices for remediation of smoke damage. This expectation applies to all insurance companies, including the California FAIR Plan.

### **Guidance to Insurers for Proper Handling of Smoke Damage Claims**

The Department expects insurers handling smoke damage claims to comply with California Insurance Code provisions that govern claims settlement practices, including without limitation California Insurance Code section 790.03(h), and all other applicable laws and regulations. In particular, insurers must adopt and implement reasonable standards for processing smoke damage claims. Also, an insurer must make good faith efforts to effectuate prompt, fair, and equitable settlements of smoke damage claims where liability is reasonably clear. Further, section 2695.7(d) of the Fair Claims Settlement Practices Regulations<sup>5</sup> requires every insurer to conduct and diligently pursue a thorough, fair, and objective investigation of a claim.

According to the Los Angeles County Department of Public Health, fire debris and ash from wildfires may contain asbestos, heavy metals, chemicals, and other hazardous substances. Fire debris and ash also pose significant threats to public health through inhalation of dust particles and contamination of drinking water. The improper handling of fire debris and ash can expose residents to toxic materials and can spread hazardous substances throughout the community.<sup>6</sup>

Evidence that smoke has caused such damage to a policyholder's property must be fully and fairly investigated. When a policyholder makes a claim for smoke damage, the insurer is required to act reasonably and promptly, and to adopt and implement reasonable standards for the prompt investigation and processing of the claim. It is not reasonable to deny a smoke damage claim without conducting an appropriate investigation, nor is it reasonable for the insurer to require the insured to incur substantial costs to investigate their own claim. If professional testing is warranted for a

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<sup>3</sup> "A case is not authority for a proposition not considered therein or an issue not presented by its own particular facts." *McConnell v. Advantest America, Inc.* (Ca. Ct. of Appeal, 4<sup>th</sup> Dist., Div. 1, 2023) 92 Cal.App.5<sup>th</sup> 596, 611.

<sup>4</sup> "**Here there is no evidence** of any 'direct physical loss to [plaintiffs'] property.'" *Gharibian, supra*, 2025 WL 426092, \*4 (Emphasis added.)

<sup>5</sup> Cal. Code Regs., tit. 10.

<sup>6</sup> See, Insurance Commissioner Ricardo Lara's February 14, 2025, "[Notice re Additional Living Expense Coverage When Homes are Uninhabitable as a Result of 2025 Los Angeles Wildfires](#)," referencing declarations and orders from the Los Angeles County Department of Public Health and the Los Angeles County Health Officer.

specific claim, the Department expects the insurance company to contract and pay for these services. The Department has found that there are a number of low-cost, commercially available at-home test kits for asbestos and other smoke damage contaminants, and encourages insurers to consider the distribution of such kits to insureds as a reasonable first step in responding to and investigating certain smoke damage claims where professional testing may not be initially warranted. Depending on the results of such at-home test kits, additional investigation and processing may of course be warranted.

The Department will be carefully monitoring how insurance companies handle smoke claims to ensure that all laws are complied with and that policyholders receive the full benefits owed under their insurance policies.

If a policyholder has questions on their wildfire claim, please contact your insurance company or adjuster directly. If there are still questions or concerns after contacting the insurance company, please contact the Department directly by calling our toll-free Hotline at (800) 927-4357 or visit us online at [www.insurance.ca.gov](http://www.insurance.ca.gov).

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