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California Fires Spark Lawsuits

By Amanda Bronstad

LOS ANGELES — Now that last week's wildfires in Southern California have died down, their aftermath could spark hundreds of lawsuits from homeowners.

The flames were the worst since 2003, when several wildfires caused about \$2 billion in economic damages and killed 24 people in Southern California. At that time, homeowners filed about 200 lawsuits against insurance companies, primarily for undervalued coverage or low-balled repair estimates.

Lawyers predict similar litigation this time around. Some said the total number of lawsuits could be lower given the lessons learned from 2003. Others speculated that arson, which has been tied to at least one fire, could generate suits involving reinsurance firms. Also, homeowners who were assured protection against wildfires might file lawsuits against the developers.

"If history is any indication, there likely will be cases that arise out of this," said Ricardo Echeverria, a partner at Claremont, Calif.-based Shernoff, Bidart & Darras, one of three firms that filed suits against insurance firms in 2003.

Meanwhile, federal and local prosecutors are being more aggressive this time in charging people who might have started the fires, either negligently or as an act of arson. Several people have been arrested or charged in connection with last week's fires.

'Bad disputes'

More than 2,700 buildings, most of them homes, were destroyed last week as wildfires burned nearly 500,000 acres in California. The devastation caused several deaths and could cost billions of dollars in economic damage.

That means lawsuits, said John Ellison, managing shareholder in the Philadelphia office of New York's Anderson Kill & Olick, which has represented policyholders affected by Hurricane Katrina.

"Whenever there's a problem on this scale, there are always bad disputes that arise with insurance companies about what they're going to pay, when they're going to pay and how much they're going to pay," Ellison said.

Dean Hansell is a partner at the international law firm of Dewey & LeBoeuf LLP, resident in the Los Angeles office.

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The value of someone's home, for instance, could be dramatically different from what was quoted when the homeowner's policy was purchased, particularly in California, where property values have skyrocketed in recent years, Ellison said.

That was a big issue in California following the 2003 wildfires, he said.

→ But last week's fires could raise some novel lawsuits. **Dean Hansell**, a partner in the Los Angeles office of New York's Dewey & LeBoeuf, said homeowners who believed their houses would be safe in a wildfire could sue developers for having built homes with materials that failed to save their house.

Several homes in high-risk areas survived menacing blazes last week after being rebuilt with fire-resistant materials, he said.

Arson also could lead to litigation between insurance companies and reinsurance firms, which provide insurance to insurance companies. To obtain the highest coverage with the lowest deductible, for example, a homeowner's insurance firm could claim that last week's multiple wildfires were the result of a single occurrence: The region's wind conditions and parched ground.

"But if the fire was set by arson," Hansell said, "obviously that's not relevant." As a result, a reinsurance firm could dispute those claims.

Lawyers representing insurance firms downplayed potential litigation, noting that insurers have learned from 2003. "As a consequence," said Lane Ashley, co-chairman of the insurance coverage group at Los Angeles-based Lewis, Brisbois, Bisgaard & Smith, "we may see fewer lawsuits arising out of the 2007 fires than what we encountered in these prior events."

Criminal acts

Going after the individuals who cause fires is "not something we've always done," said Assistant U.S. Attorney Joseph O. Johns, chief of the public integrity and environmental crimes section of the U.S. Attorney's Office for the Central District of California.

In August, prosecutors in his office charged 10 people with negligently setting fires, including some that caused the destructive flames of 2003. Those fires, he said, "caused prosecutors to cast about for a way we could perhaps prevent such devastating consequences of fires taking place in future years."

At least one of last week's fires has been linked to arson. But charges rarely involve arson, Johns said. "If you start a signal fire to save your life, you're intentionally putting flame to brush and starting a fire," he said.

Two years ago, the U.S. Attorney's Office for the Southern District of California sentenced a hunter to six months in a correctional facility and community service for starting a blaze in 2003 that ultimately burned 270,000 acres and killed 14 people in San Diego.