

**BLOGS**

Natural Disasters

Recent Decision from California Appeals Court Could Imperil Homeowner's Coverage for Southern California Wildfires

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Coming on the heels of what are projected to be the costliest wildfires in California history, a new decision from the California Second District Court of Appeals could make it more difficult to obtain insurance coverage for policyholders owning properties outside the direct burn zone of the devastating Palisades and Eaton wildfires in Southern California.

Last week, the Second District affirmed a decision that wildfire debris caused by the 2019 Saddle Ridge fire did not constitute "direct physical loss" under the policy. The case, *Gharibian v. Wawanesa General Ins. Co.*, No. B325859, 2025 WL 426092 (Cal. Ct. App. Feb. 7, 2025), involved an insurance claim brought under a homeowner's policy which insured against "direct physical loss to property." Though the plaintiffs' home did not physically burn, the property sustained smoke, soot, and ash damage from the fires that raged just a half mile from the insured home. The insurer eventually paid to clean the house but refused to pay for exterior repairs (such as painting and stucco repair), replacement of the home's insulation, and HVAC repairs.

The homeowners sued, asserting that the insurer, Wawanesa, had breached the terms of the insurance contract and acted in bad faith. Wawanesa responded by filing for summary judgment claiming the homeowners failed to demonstrate a physical loss within the scope of the policy's coverage. The trial court entered summary judgment in favor of the insurer and the homeowners appealed.

The Second District affirmed the ruling, holding there was "no evidence of any 'direct physical loss to plaintiffs' property.'" In reaching its decision, the court applied the reasoning in *Another Planet Entertainment, LLC v. Vigilant Ins. Co.* (2024) 15 Cal.5th 1106 – a California Supreme Court which held the mere presence of COVID-19 virus on an insured's premises did not automatically constitute "direct physical loss" within the scope of a commercial property policy. Based on *Another Planet*, the court in *Gharibian* found that the smoke, soot and ash—like the COVID-19 virus—did not cause demonstrable physical alteration to the home. And like the COVID-19 virus, the wildfire debris could—at least arguably—be easily cleaned or removed without physically altering the property. While the *Gharibian* court recognized that wildfire debris "can create physical damage to a structure," it found that no such physical damage existed to the plaintiffs'

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property. Because “direct physical loss” requires a physical alteration of property, the court held there was no coverage for the loss.

Thus, according to the holding in *Gharibian*, the mere presence of smoke, ash or soot does not automatically qualify as “direct physical loss” under a homeowners’ policy. Rather, to trigger coverage, there must be some distinct, physical alteration to the property. The physical alteration need not be visible to the naked eye, nor must it be structural, but it must result in some injury or impairment to the property.

As *Gharibian* makes clear, it is critical that policyholders retain skilled and knowledgeable legal representation that can help navigate the pitfalls of coverage. With these types of devastating losses, early retention of counsel is critical to ensure that damage is appropriately documented and analyzed by qualified experts to meet the increasingly narrow standard of “direct physical loss.”

Lathrop GPM’s Insurance Recovery attorneys are committed to assisting policyholders maximize their insurance recovery. For more information or coverage-related inquiries, contact [Noah Nash](#), [Marissa Sinha](#) or your regular Lathrop GPM attorney.