

[Ruling puts California insurers on notice that their policies are unlawful](#)

In an [recent order](#), Judge Carolyn B. Kuhl of the Los Angeles Superior Court ruled that Travelers' California home insurance policies contain an unlawful notice provision related to smoke damage. Travelers is one of a [handful of insurance companies](#) that have begun to include limitations to coverage for smoke damage in their homeowner's policies. The Travelers policy at issue limited a policyholder's maximum recovery to \$2500 if they did not report a claim for smoke damage within 45 days of the fire that caused the smoke damage.

Homeowners filed a class action against Travelers alleging that their policy violated the "Duties After Loss" in Cal. Ins. Code 2071, the standard form fire policy for California. While Traveler's policy included the 45-day requirement, 2071 requires only that the policyholder report a claim "without unnecessary delay." Travelers argued that its policy form was actually more favorable than 2071 - the floor under which no policy sold in California may fall below - and thus legal, but Judge Kuhl rejected that flawed argument on demurrer.

The significance of this ruling and others like it, is that it affirms that insurance companies cannot draft and sell policy forms to California consumers that attempt to circumvent California law. Insurance companies have attempted to do this in other regards - [including a recent case involving the method of settling actual cash value claims](#) - and Courts have found these attempts to be illegal. For homeowners, they can rest easy knowing that they have adequate time to evaluate smoke damage to their home before filing a claim.