CONSUMER ATTORNEYS OF CALIFORNIA

SEEKING JUSTICE FOR ALL

May 7, 2026

TO: ASSEMBLY AND SENATE UTILITIES COMMITTEES, ASSEMBLY AND SENATE INSURANCE COMMITTEES, ASSEMBLY AND SENATE JUDICIARY COMMITTEES, SENATE EMERGENCY MANAGEMENT COMMITTEE

FR: CONSUMER ATTORNEYS OF CALIFORNIA

ADVOCATE CONTACT: NANCY PEVERINI

RE: **THE WILDFIRE FUND, HOMEOWNER'S LEGAL RIGHTS AND THE SB 254 REPORT**

PROBLEM:

The January 7, 2025, Eaton wildfire killed 19 people and destroyed 9,414 structures in Altadena and surrounding areas of Los Angeles County. The fire burned 14,021 acres before being declared fully contained on January 31. As the Legislature evaluates wildfire liability, insurance stability, and rebuilding policy following the January 2025 Eaton wildfire, policymakers face decisions that will directly affect homeowner recovery, insurance access, and community rebuilding timelines. Existing legal frameworks play a central role in compensating victims and promoting safe infrastructure investment. Proposals to modify these frameworks should be evaluated based on their impact on consumer recovery, market stability, and long-term resilience.

Right now, utilities and others are seeking to limit legal responsibilities that help homeowners and communities recover. The Legislature should reject those attempts.

KEY POLICY TAKEAWAYS FOR 2026:

- Inverse condemnation is a core compensation mechanism for wildfire victims and a constitutional right in Article I Section 19 of the California Constitution.
- Our state should avoid artificial limits that may reduce access to legal representation for homeowners.
- CA should preserve full recovery of damages to support rebuilding and community stability, especially in a climate of underinsurance.
- Consumer groups have widely criticized the CEA SB 254 report as it utterly failed to evaluate the conduct of IOUs in creating fires that have destroyed our communities.
- Legislators should evaluate SB 254 recommendations through the lens of utility accountability, consumer protection, insurance availability, and rebuilding incentives.
- CAOC supports AB 1774 (Boerner) which requires independent audits of utility wildfire mitigation spending to ensure funds are fully utilized before additional financial burdens are placed on Californians through rate increases.

BACKGROUND:

- **Brief Summary of AB 1054 and AB 111**

The 2019 Wildfire Legislation established financial and safety reforms intended to stabilize utilities while preserving compensation pathways for wildfire victims. The California Wildfire Fund was designed to balance infrastructure investment, ratepayer protections, and timely payment of eligible claims following covered wildfires.

According to its website: The purpose of the Fund is to provide a source of money to reimburse eligible claims arising from a covered wildfire caused by a utility company that participates in the Fund by assisting in capitalizing the Fund, and undertaking certain other obligations specified in the law. In

addition to other requirements, a “covered wildfire” is only one that was ignited on or after July 12, 2019.

There are three participating utilities in the fund: San Diego Gas & Electric, Southern California Edison and PG&E. https://www.cawildfirefund

- **SB 254 Report Issued in April, 2026**

Last year the Legislature passed SB 254, which required the California Earthquake Authority to issue recommendations to the Legislature by April 2026. Since its issuance, the report has been widely criticized by consumer groups. A coalition of twenty-three organizations — including wildfire survivors, consumer advocates, and environmental groups — blasted the California Earthquake Authority’s (CEA) wildfire report for failing to hold utilities accountable for their role in causing some of the most destructive fires in state history. In a letter to legislative leaders, the groups wrote that the report “remarkably avoids placing blame on utilities whose misconduct has caused a substantial share of the major fires over the last decade,” despite overwhelming evidence linking utility failures to some of the deadliest and most destructive wildfires in state history.

Instead of confronting that record, the coalition warns, the CEA report’s recommendations “skew toward absolving utilities of responsibility and placing burdens on ratepayers, wildfire survivors, taxpayers and consumers.” The report even proposes eliminating punitive damages — reserved for cases of malice, oppression, or fraud — raising a fundamental question: what incentive do utilities have to prevent fires if they are not held accountable when they willfully cause harm?

Policymakers reviewing the report should consider how recommended concepts may affect rebuilding incentives, consumer compensation, utility accountability, and the long-term sustainability of the Wildfire Fund.

CAOC’S POSITION:

- **Existing inverse condemnation law remains a central mechanism for compensating property owners while incentivizing safe utility operations. Available legal precedent**

and historical wildfire outcomes suggest that significant modification could alter rebuilding incentives and shift recovery costs onto homeowners or public systems.

We understand that there is renewed discussion following the terrible Los Angeles fires about the role liability plays in holding investor-owned utilities (IOUs) responsible for damage. For context, after the 2019 North Bay fires, PG&E pushed for legislation to limit victims' legal rights, particularly as related to a constitutional right and legal theory known as inverse condemnation (inverse). Following the 2019 northern California wildfires, CAOC joined with public entities, victims' and consumer groups, and insurers to oppose changes to this law.

Inverse condemnation is not a tort-based theory of recovery. Inverse condemnation is a legal doctrine that stems from the Takings Clause in Article One, Section 19 of the California Constitution. Inverse condemnation is a no-fault liability theory, **but the damage must arise out of the functioning of the public improvement as deliberately conceived, altered and maintained**.

An act or event "having no relation to the functioning of the project as conceived does not create a claim in inverse condemnation." Damage must arise, "out of the functioning of the public improvement as deliberately conceived, altered and maintained." Barham v. S. Cal. Edison Co., 74 Cal. App. 4th 744, 755, 88 Cal. Rptr. 2d 424, 432 (1999)

To clarify, the event MUST BE a substantial cause of the fire. If a drunk driver hits a pole and causes a fire, that person is the substantial factor in causing the fire and he or she has nothing to do with how the system was "deliberately conceived, altered and maintained."

Inverse condemnation plays a significant role in enabling homeowners to rebuild by providing a clear pathway to recover property losses associated with utility infrastructure.

For lower-income homeowners, inverse condemnation is not a supplement to insurance recovery, it is often the only meaningful path to compensation at all as many Californians are underinsured or wholly uninsured altogether.

In addition, older policies with outdated limits are failing to keep pace with rebuild costs, many homeowners find themselves uninsured or significantly underinsured at the time of a disaster, making rebuilding efforts nearly impossible without the legal pathway provided by inverse condemnation. These homeowners, who are least likely to have the financial reserves to absorb a total loss, are most dependent on the protections inverse condemnation provides. Weakening or eliminating this constitutional right and legal doctrine would not merely reduce their recovery — it would eliminate it entirely. The inability to rebuild leads to community and sometimes state emigration further crippling a community in the aftermath of an IOU wildfire.

Inverse condemnation also functions as a critical deterrent against utility negligence. Under the current framework, investor-owned utilities (IOUs) face direct financial accountability when their infrastructure causes harm, creating a strong incentive to invest in grid safety and wildfire mitigation. Reforming inverse condemnation would not eliminate the financial consequences of utility-caused wildfires — it would merely shift who bears those costs, and it would further disincentive IOUs from investing in critical transmission and distribution infrastructure. If IOUs are insulated from liability, the losses do not disappear; they are redirected onto homeowners, insurance markets, and ultimately the public—rather than the for-profit corporations backed by some of the largest institutional investors in the nation. Ratepayers should be equally skeptical of reform proposals: weakening liability standards means that when disasters do occur, prolonged litigation under a negligence framework will delay payouts, increase legal costs, and ultimately result in ratepayer rate increases to cover those expenses. Perhaps most importantly, reducing IOU accountability gives investor-owned utilities greater financial latitude to prioritize shareholder returns over the infrastructure modernization and grid safety investments that protect communities from future wildfires.

- **Limits on Damages Harm Access to the Civil Justice System for all Consumers Harmed by Wildfires**

Proposals to cap or limit negligence-based damages will harm the ability of wildfire victims to achieve full economic recovery and may shift financial burdens to insurance markets, local governments, or public assistance programs. Plaintiffs can legally recover non-economic damages under negligence theories for being in the zone of danger under two theories. A plaintiff either faced the threat of physical injury by being within close proximity to the fire so that it posed an imminent threat of physical injury, or, a plaintiff contemporaneously perceived that the fire was causing harm to a loved one.[1] In the second circumstance a plaintiff may recover if she contemporaneously perceives that a fire is causing harm to her loved one. A person who spent hours in a pool of water while surrounded by fire or the person who fled in pajamas through burning bushes has real and lasting damages and they should not be artificially limited under long standing negligence theories.

- **Artificial limits on homeowner's right to contract for an attorney hurt people who cannot afford to pay an attorney by the hour**

Attorneys representing IOU wildfire victims know that legal fees can prohibit many, especially those of low-socioeconomic backgrounds, from pursuing justice, so they choose to work on a contingency fee basis so that anyone – not just the wealthy – can stand up to corporations like Edison and PG&E, which have the financial means to hire the largest defense firms in the nation. A contingency agreement is a "no win, no fee" structure. The lawyer takes on the financial burden and risk of proving liability in California's court system in accordance with California's Rules of Evidence and other strict legal requirements: attorney are paid fees and allowed to recover advanced costs only if the homeowner receives a recovery from a court judgment or out-of-court settlement. Experienced plaintiffs' counsel risk the output of hard costs and their time and overhead to prove the cause and origin of the IOU wildfire, which furthers the goals of IOU accountability. CAOC supports this

[1] CACI 1621.

approach to keeping the civil justice system open to all, with a pay structure for homeowners that fosters the most equitable representation.

Experience shows that in fire zones, market forces naturally provide homeowners with leverage in negotiating fees. Homeowners can, and do, negotiate contingency fees. Attempts to limit fee percentages are not attacks on lawyers – they are attacks on the people who depend on them and on communities that deserve access to the civil justice system through experienced wildfire attorneys who risk time and costs to prove the cause and origin of the IOU caused wildfire.

- **CAOC has been, and continues to be, in the forefront, working with legislative leaders, to address the increase in advertising, the influence of private equity in the legal field and unethical practices by some attorneys.**

Our organization has been a leader in addressing attorney advertising and unethical practices in the law. Last year, we sponsored two bills, both signed by the Governor, and this year we are sponsoring two more.

- <u>Overview</u>

Governor Newsom took major steps to reform the legal system and hold unethical attorneys accountable when he signed AB 931 (Kalra) and SB 37 (Umberg) into law, effective January 1, 2026. This package of strong ethics reforms puts California in the forefront to crack down on ethical abuses and illegal behavior. While these bills have just gone into effect and should soon produce results, CAOC is continuing to work in 2026 to codify additional ethics protections to guard the integrity of the legal system via AB 2305 (Kalra) and AB 2039 (Zbur)-see below.

- <u>CAOC Position</u>

CAOC has long warned about the growing influence of private equity and other Wall Street investors in California's legal system. During several years of debate at the State Bar, we forcefully opposed State Bar attempts to weaken ethical standards by allowing non-lawyer ownership of law firms. We

argued that these financial arrangements would undermine professional independence, distort case screening decisions, and treat human suffering as an investment vehicle.

In response to these concerns, CAOC sponsored AB 931 (Kalra), which took effect January 1, 2026. AB 931 makes important progress in ethics reform. AB 931 explicitly states that attorneys cannot share legal fees with non-lawyers including financial investors. California is the first state in the nation to put this directly into statute. This provision directly targets the financial arrangements that allow investors and private equity to profit from case outcomes, which are central to the abusive practices identified in recent reporting. AB 931 empowers citizens to bring civil actions against attorneys who engage in prohibited financial arrangements. AB 931 further regulates litigation financing companies that provide cash advances to plaintiffs awaiting case resolution.

CAOC also sponsored SB 37 (Umberg) to address misleading and deceptive attorney advertising by enacting new, tougher standards on advertising. First, it modernizes the definition of advertising to include all types of attorney advertising, whether digital, or physical such as a billboard. It also creates higher standards. For the first time, any ad must disclose the name of a licensed California lawyer and the location of a bona fide office location or address of record with the State Bar. The new law also bans any advertising of junk awards that the recipients have purchased rather than earned and creates consumer enforcement of its provisions.

SB 37 also addressed “capping” or attorney paying for clients by allowing consumer enforcement. Although SB 37 has only been in effect since January 1, we have already seen a positive impact on attorney advertising as a direct result of this legislation.

<u>CAOC Sponsored Bills in 2026</u>

CAOC is committed to working with lawmakers in 2026 and beyond to codify even stronger ethical protections and restore public confidence in the justice system. To that end, we are sponsoring two bills that will continue efforts in this area.

AB 2305 (Kalra) addresses the increasingly negative influence of private equity into the legal field. When a client hires a lawyer, the lawyer should be making decisions with their clients, rather than private equity investors looking for profit. AB 2305 prohibits private equity firms, hedge funds, and other corporate investors from directing or influencing the practice of law. The bill ensures that decisions about litigation—including case strategy, resolution, and representation—remain solely in the hands of licensed attorneys and their clients. AB 2305 closes emerging loopholes and protects the independence of the legal profession and the integrity of the justice system. AB 2305 passed the Assembly and is pending in the Senate.

AB 2039 (Zbur) will strengthen consumer protection, promote ethical accountability within the legal profession, and enhance enforcement of existing laws governing attorney misconduct.

The bill accomplishes three key goals: 1) strengthens mandatory disbarment proceedings for attorneys who are guilty of illegal capping, 2) creates whistleblower protections for those who report attorney misconduct; and 3) regulates attorney-client loans and financial advances. Together, these reforms close enforcement gaps, deter misconduct, and enhance public trust in the legal system.

In short, while it is appropriate and needed for the Legislature to address flaws in the legal system, it must also continue to prioritize the legal rights of victims and homeowners. Further, in the fire context, any analysis of legislative changes must first start with an examination of the IOUs whose conduct has repeatedly led to fires in our state. Thank you for considering our views.

Nancy Peverini

Nancy Peverini, CAOC Legislative Director