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Wildfires and Utility Liability: Complying With New Regulations, Impact of PG&E Litigation

Project Development, Safety and Maintenance, Pursuing and Defending Claims

TUESDAY, SEPTEMBER 17, 2019

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

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Mark S. Grotefeld, Founding Partner, **Grotefeld Hoffmann**, Austin, Texas

Diane Marger Moore, Attorney, **Baum Hedlund Aristei & Goldman**, Los Angeles

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WILDFIRES & UTILITY LIABILITY - COMPLYING WITH NEW REGULATIONS AND IMPACT TO ENERGY INFRASTRUCTURE

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I. IMPACT OF LITIGATION ON ENERGY INFRASTRUCTURE

MARK S. GROTEFELD

POSITIVE CHANGE IS OCCURRING

- Case related efforts aggressively track utility conduct
- Focus is on maintenance of systems
- Goal for utilities to increase maintenance budgets and heighten compliance with governing standards and guidelines
- Adherence will decrease risk of future wildfire ignitions
- Net result is a safer environment for the general public



BUT . . .

- Many risk factors not addressed
- Insurance market near catastrophe
- Lack of qualified contractors
- Inequitable indemnity relationships



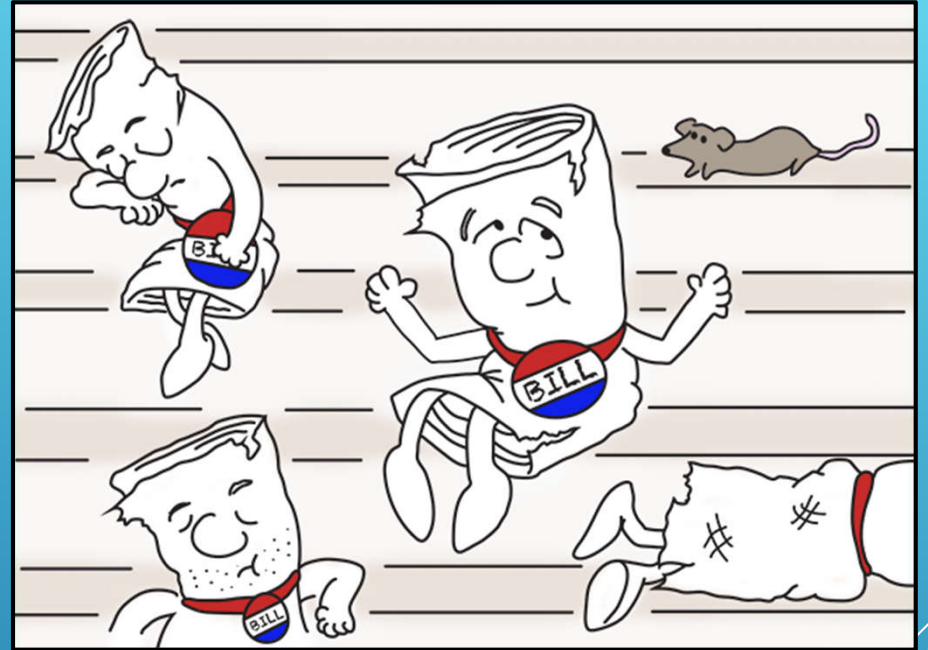
II. RECENT STATE LEGISLATION AND REGULATIONS

RANDY W. GIMPLE

SURVIVAL OF THE FITTEST?

Battle of the Bills in California

- Inverse condemnation
- Wildfire Fund
- Wildfire Prevention Standards
- Oversight
- Financial Protection for Utilities
- Rate-Payer “Pass-Throughs”



III. FIRES ON FEDERAL LANDS -- RECENT CASES

MARK S. GROTEFELD

- These fires generally relate to firefighting efforts after the ignition of a wildfire
- Generally speaking, the federal government has tort immunity where firefighting involves a discretionary act
- An exception to this would be a ministerial requirement to follow an adopted fire plan
- This issue is presently being looked at with regard to the Chimney Tops II fire that occurred outside of Gatlinburg, Tennessee in November 2016

IV. BEST PRACTICES IN PURSUING OR DEFENDING CLAIMS

DIANE MARGER MOORE
& ENTIRE PANEL

NO SUBSTITUTE FOR THOROUGH INVESTIGATION

- Timing is everything
- Coordinate with public officials
- Coordination among interested parties
- Marshalling evidence



DEFENDING ON MULTIPLE FRONTS



- Bankruptcy Court
- Public Utilities Commission
- Wildfire Fund
- Government Agencies
- Criminal Court
- Civil Court
- Media