

Storm victims may still recover losses

By JAMIE MARKS
Sentinel Staff Writer

Santa Cruz County residents who were denied insurance claims in the wake of the devastating January storms may yet be able to recover their losses, asserts a Hayward attorney.

In lawsuits filed last week in Santa Cruz County Superior Court and San Francisco Federal Court, attorney Dan Cooper has raised the argument that insurance claims must be paid if it can be shown that human activity contributed to the causes of floods and landslides.

As proof of his assertion, Cooper cites three recent court rulings that have

avored homeowners.

"The courts have been saying that even if the immediate cause of damage was flooding or landslides, if a third party has combined to cause the damage, then the claims must be paid," he said.

The impact for county residents — many of whom were denied claims — is "staggering," said Cooper.

To Cooper's knowledge, there has been only one insurance company that has paid claims filed by residents whose homes were destroyed.

The rest of the insurance companies, he said, have been taking the position that claims are exempted if

the cause of damage was flooding or landslides.

"I would estimate that millions and millions of dollars worth of claims have been filed in Santa Cruz County," he said.

In more than 50 percent of the cases, Cooper believes human activity added to the destruction caused by floods and landslides.

The attorney filed a lawsuit in Santa Cruz County Superior Court on behalf of an elderly Ben Lomond couple, Albert and Sadie Bartal.

The suit alleges that county construction of Alba Road, which borders the Bartal's property, diverted the natural run-off from

streams and other waterways, undermining the stability of land in the area.

Named as defendants in that lawsuit are the county, Lumberman's Mutual Casualty Co., and the San Francisco-based real estate brokerage house of William Dukes and Company.

Cooper raised the same issue in the Santa Cruz lawsuit as in the one he filed in federal court against eight insurance companies on behalf of 13 Love Creek families.

The argument goes that where human activity can be proven to be a factor, insurance companies must pony up the money to pay

off insurance claims.

He's seeking recovery of the amount of property damage sustained in the storms, as well as punitive damages against the insurance companies.

"We'll be trying to prove 'bad faith' on the part of insurance companies who issued 'all-risk of loss' policies," he said.

Against the county, Cooper is attempting to show that a 1972 map of potential landslides warned the county of future problems, and that the so-called "Cooper-Clarke report" was virtually ignored when construction of mountain roads was begun.