



Burned Up: Owner Sharon Li at a La Puente property damaged by a fire in June of last year.

RINGO H.W. CHIU/LABJ

Insurer delays can prove costly for businesses

By **HENRY MEIER** Staff Reporter

LAST June, Sharon Li's warehouse in La Puente was gutted when a tenant's stash of cosmetics caught fire and set the building aflame.

That initial kick in the teeth set off a months-long fight with Li's insurance carrier that landed in court last month, one of several such cases that are all-too familiar for small and midsize businesses that have dealt with significant insurance claims. As carriers spend more and more time scrutinizing and pushing back on claims, the length of time it takes to get a business back on track is extended, compounding losses incurred by the underlying event.

Such insurer-driven delays can be cause for additional remuneration, however. Bad faith "business interruption" lawsuits, such as the one filed by Li, are cropping up more and more, according to her attorneys at the Beverly Hills office of **Sherhoff Bidart Echeverria Bentley**.

"In recent years what we've seen is that insurance companies have taken longer to investigate claims and are looking harder for reasons to deny claims outright," said Sherhoff partner **Samuel**

Bruchey. "With these delays, business interruption damages grow quickly."

And these financial hits can sometimes be overlooked. In the midst of dealing with a fire or flooding, companies don't realize that their biggest losses aren't necessarily the material goods or infrastructure damaged during the incident, but lost revenue caused by a shutdown.

Business interruption claims themselves are a longstanding part of the insurance industry. Most commercial policies have some covenant that allows companies to recoup monies that are lost as a result of an incident that forces a business to go partially or wholly offline for some period of time. Even though traditional business interruption coverage is a well-established area in insurance, awareness is not great among smaller companies, according to **David Halbreich**, a partner at downtown L.A.'s **Reed Smith**.

"When dealing with less sophisticated businesses, they often don't know about this type of thing," he said.

Defining losses

Even when a business is aware, the somewhat subjective nature of business interruption claims

means they are regularly contested.

"Very often it comes down to a dispute between forensic accountants about profit and loss," Halbreich added, noting there are a variety of issues that can set up traditional business interruption disputes.

But it's not just mom-and-pop shops that wind up in this type of legal battle.

An insurance dispute over the **Sony Pictures Entertainment** email hack fits into this model. While there was a somewhat novel issue – the extent to which a cyberattack can cripple a business and for how long represented new questions – a deal was eventually struck between the company and its carriers, including New York's **Hiscox Inc.**

When disputes arise, Bruchey said it's often a more effective strategy to file a case first and not waste time imploring carriers to change their mind outside of court.

"When we see evidence of bad faith and business interruption we don't try to persuade a carrier with letters," he said. "Usually it's better to file a suit to get their attention."

Alan Yuter, a partner at West L.A.'s Selman Breitman who represents insurance firms, said businesses will try and come with any type of damages theory they can but must prove causation.

"There's a whole lot of accounting that has to be done and it can be difficult to prove in your favor," Yuter said.

In addition to Li's suit, which was filed against her carrier, **Travelers Casualty Insurance Co. of America**, and broker, **Grosslight Insurance**, in Los Angeles Superior Court, Bruchey said his firm has had a continuous stream of such cases.

The firm counts Burbank-based **Ambiance Cosmetics** and downtown L.A.'s **Black Cat Fashion** as recent clients, among others. These businesses are portrayed as victims of predatory actors who promise responsive coverage only to provide prolonged investigation and claim denials when disaster strikes.

In Li's case, her claims were denied because the warehouse was not equipped with an automatic sprinkler system, something she said insurance firms never asked about when she shopped for coverage.

"I trusted my broker to find the right kind of insurance for me and that if anything happened, the insurance company would pay," she said.

After the fire, Li, who rented the building out through her Rowland Heights leasing business **JJ Bright Stars**, found herself without the \$8,168 in rent she received each month from her tenant, cosmetics firm **LASplash**.

"I was in shock and disbelief," Li said. "I didn't know what to do."

An attorney representing Travelers declined to comment on the case, but court filings show the company contends it should not pay because the sprinkler system was a required component to validate the contract.

The parties are waiting for an initial hearing to be set before Judge **Michelle Rosenblatt**.