

# New appeal in Mastagni quake case

Nick Wilson, San Luis Obispo Tribune, 8-10-10

Mary Mastagni has filed a petition asking the California Supreme Court to review a ruling involving building liability in the deaths of two women in Paso Robles in the 2003 San Simeon Earthquake.

As part of that case, Mastagni — whose family owns the Acorn Building, which collapsed during the quake — faces a \$2 million judgment against her.

One of Mastagni's lawyers, Robert Kaufman of the Agoura Hills-based firm Brown, Brown & Klass, said the petition requests that the Supreme Court review the case, which was last heard by the 2nd District Court of Appeal. A response from the Supreme Court is due by Oct. 1, Kaufman said.

The case has potentially far-reaching effects because under the current decision building owners could be held liable if they wait to retrofit their unreinforced buildings, regardless of whether they plan to meet a deadline for earthquake strengthening.

"We feel that the Court of Appeal not only is not in the best interest of our client, but of several cities throughout California," Kaufman said.

The families of 20-year-old Jennifer Myrick and 55-year-old Marilyn Frost-Zafuto, who both worked in a clothing shop in the Acorn Building in downtown Paso Robles, won a lawsuit in 2008 against Mastagni and trusts and businesses owned by her family.

A jury decided they were responsible for the 111-year-old Acorn Building and negligent in its maintenance and operation.

They recommended about \$2 million be paid to the families of the deceased by Mastagni and her trusts.

The Ventura-based 2nd District appellate court, which heard arguments in May, upheld the ruling and award.

In the appeal, the defendants said they did not have to retrofit the building until 2018, which was the deadline established by a Paso Robles ordinance.

"A city ordinance requiring hazardous buildings to be retrofitted by a certain date does not insulate owners of unreinforced masonry buildings from negligence causing death or injuries prior to the compliance date," the appellate court stated in its ruling.

If the Supreme Court declines to take up the case, the appellate court ruling will stand and extend to owners of quake-vulnerable buildings.