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## Orleans district attorney sues insurance company over forfeited bail bonds

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NO IMAGE By **John Simerman**, The Times-Picayune

Orleans Parish **District Attorney Leon Cannizzaro** has turned up the heat on a national insurance company in a long-running dispute over nearly \$1 million in forfeited bail bonds, much of which sat uncollected for years. Cannizzaro's office sued Florida-based American Bankers Insurance Co., this week in a Baton Rouge courthouse, claiming a breach of the company's duty to pay off bonds on suspects who didn't show up for their court dates.



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**size**Times-Picayune archiveOrleans Parish District Attorney Leon Cannizzaro is asking the state to revoke the company's right to do any insurance business in Louisiana.

The DA also filed a complaint with the state **Department of Insurance**. In a letter to Insurance Commissioner James Donelon, Cannizzaro asked the state agency to fine the company \$25,000 for each of 109 alleged failures to pay on time, or \$2.73 million.

In most of those cases, the DA's office eventually got a judge's order to garnish the money, with interest, from the company's bank, to the tune of about \$780,000. It is still fighting for another \$134,000 plus interest and is asking the state to revoke the company's right to do any insurance business in Louisiana.

American Bankers, a subsidiary of Fortune 500 company Assurant, billed for \$47 million in insurance premiums last year in Louisiana, mostly on federal flood policies, according to the state Department of Insurance.

The DA's double-barreled attack marks the latest salvo in a two-year fight over bond money in state criminal and civil courts, as well as federal court. The dispute stems from an effort by Cannizzaro's cash-strapped office to sift for revenue gold, in the form of unenforced judgments for bond forfeitures dating back to 2001.

Bail bondsmen sign for the bonds, offering up about one-eighth of the bail amount set by Orleans Parish criminal court judges. The bonds are underwritten by insurers like American Bankers, which agree to pony up the rest if the defendant skips bail. Through a "chain of indemnity," the bondsmen are held accountable to make sure defendants show up to court.

Beyond a hefty loss of revenue, critics say leaving forfeiture judgments dormant for so long defeats the purpose of holding bondsmen accountable and leaves criminal suspects with little incentive to appear. Failing to quickly notify the insurer of a bond forfeiture also makes it harder for bounty hunters to track down suspects who skip bail.

That's what the DA's office did in dozens of cases, American Bankers contends. The DA's office and Criminal District Court Clerk Arthur Morrell, meanwhile, claim they notified the bond underwriters in each contested case within the 60-day window required by state law.

American Bankers Insurance backed thousands of bonds for criminal suspects in Orleans Parish beginning in 2001 and ending in 2009, when Criminal District Judge Julian Parker barred it from backing any more bail bonds in the parish. The company remains liable for past judgments, however.

Several other bond underwriters have settled with the DA's office, but American Bankers Insurance has held out.

An agent for the company, Surety Corporation of America, is on the hook for most of the money and has led the court battle with the DA's office, challenging the judgments in criminal court and arguing in civil court that the DA's office made various missteps and caused delays that void the judgments.

Lawyers for Surety filed a federal civil rights case last year against Cannizzaro's office, Orleans Parish Sheriff Marlin Gusman and the Criminal District Court. U.S. District Court Judge Ivan Lemelle dismissed that suit in May, but Surety has appealed.

The lawsuit that Cannizzaro's office filed on Wednesday claims the legal wrangling that began in 2009 amounts to a frivolous attempt by American Bankers Insurance to shirk its responsibility. The complaint with the state agency is a bid to pressure the company to pony up.

"We're calling the insurance company to account for its behavior, that's all. And we're asking the commissioner of insurance to do the same," said Graymond Martin, first assistant district attorney, and a former official with American Bankers Insurance. "All we're asking of them is to play by the rules of an insurance company, not bail bond company rules."

Lawyers for Surety and American Bankers fought back Wednesday, filing an amended petition in Orleans Parish Civil District Court.

The petition expands on allegations that the DA's office failed to notify defendants of their next court dates before seeking bond forfeitures; notified the company too late about the forfeitures; or failed to tell American Bankers before it seized money.

The company claims the DA's office ran afoul in more than 125 cases. It wants the seized money back.

Criminal District Court Judge Laurie White and Magistrate Judge Gerard Hansen recently tossed out challenges to 16 of the judgments.

American Bankers Insurance issued a statement Thursday, saying the company had not seen the DA's new legal actions and couldn't comment on them.

"In general, this matter involves bail bonds and record-keeping from as long as a decade ago, and there are several unresolved legal issues, as well as numerous questions over records and procedures with these bonds," the statement read. "We've had discussions with local officials, as well as working toward a resolution through the courts. Once those determinations are made, we obviously will fulfill any and all responsibilities on our part."

Martin said the DA's office has gotten better at collecting on bond forfeitures, which under state law must be split between the DA and the criminal court, and continues to root through old, unenforced judgments.

"We're just getting into the meat of the problem," Martin said.