

Verdicts, Settlements & Tactics™

A Personal Injury Litigation Reporter

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VERDICTS, SETTLEMENTS & TACTICS

INSURANCE BAD FAITH

Punitive Damages Awarded For Delay In Paying Claim

In 1982, a husband and wife purchased a meat store, which their son managed. On July 3, 1983, arsonists set fire to the store, forcing the owner's son to take part in the arson.

Plaintiffs had purchased insurance coverage for fire and business interruption loss for the store. Three weeks before the fire, plaintiff's son doubled the business interruption coverage.

Immediately after the fire, plaintiffs' attorney made a claim for business interruption losses, since plaintiffs had heavy continuing obligations. The insurer hired accountants who reviewed the company books and made a preliminary report that there was no loss. Six months later, the accountants reported that there was a loss of \$25,000 per month, limited to nine months, and defendant paid this amount in March of 1984. Plaintiffs demanded \$51,000 a month for thirteen months. An appraisal hearing resulted in a determination that the loss was \$36,000 per month for nine months. Defendants paid the appraisal award.

Plaintiffs sued the insurer for bad faith. Plaintiffs claimed that the delay in payment caused a loss of profits and a loss of increased value of real estate.

Defendant claimed that all of its actions were reasonable. The delays, if any, were due to an

investigation of the son's involvement in the arson and plaintiffs' refusal to provide books or allow the son to be interviewed. Defendant claimed that the accountants' computation was reasonable, and that the business would have been lost even if all payments had been made immediately, since the business was losing money ever since it opened. Finally, defendant argued that they acted in good faith since they paid in over \$1 million in benefits.

Injury: Since all policy benefits were paid, the action was for consequential and punitive damages only.

Result: A jury awarded \$8,307,284 compensatory damages and \$12 million punitive damages.

Plaintiffs' Expert Witnesses: Duane Comport, insurance practice, Northridge, Cal.; David Uslander, CPA, accounting, Beverly Hills, Cal.

Defendant's Expert Witnesses: Stanley Henslee, CPA, accounting, Beverly Hills, Cal.; Roger Wells, CPA, accounting, Santa Ana, Cal.; William Maxon, insurance practices, Santa Clarita, Cal.; Riley Hall, insurance practices, Los Angeles, Cal.

Plaintiff's Attorneys: Larry Grassini and Robert Mansell of Hurley, Grassini & Wrinkle, North Hollywood, Cal.

Kasparian v. Fremont Indemnity Co., No C532896 (Los Angeles Cty. Super. Ct., Cal. June 16, 1989).