

7 Trials Digest 11th 8 (Cal.Superior), 2008 WL 382330

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Superior Court, Stanislaus County, California.

Kaur vs. Fire **Insurance** Exchange

TOPIC:

Synopsis: Woman's failure to cooperate with **insurance** investigation led to denial of claim

Case Type: **Insurance**; Homeowners Policy; **Insurance**; Fire; **Insurance**; Bad Faith & Coverage

DOCKET NUMBER: 382612

STATE: California

COUNTY: Stanislaus

Verdict/Judgment Date: January 25, 2008

JUDGE: [Roger M. Beauchesne](#)

ATTORNEYS:

Plaintiff: [William L. Cowin](#), Law Offices of William L. Cowin, Fresno; [James H. Wilkins](#), Wilkins, Drolshagen & Czeshinski, Fresno.

Defendant: [William T. McLaughlin II](#), McLaughlin Sullivan, Fresno.

SUMMARY:

Verdict/Judgment: Defendant

Verdict/Judgment Amount: Defense

Range: \$0

The jury returned a verdict in favor of defendant based on the first issue presented on the special verdict form: whether plaintiff's failure to cooperate by providing defendant with requested records materially prejudiced defendant's investigation. While there was evidence pointing to the involvement of plaintiff and her sons in the fires, the defense focused primarily on plaintiff's unreasonable failure to comply with defendant's investigation in accordance with her policy's cooperation provisions. While extremely sympathetic to plaintiff's plight, the jurors reported that the defense had proven that plaintiff had not cooperated by providing defendant with requested records, and that her failure had, in fact, prejudiced defendant's investigation. The jury's disposition of the case on the first issue, lack of cooperation in providing requested records, precluded the jury's consideration of other defenses including: plaintiff's failure to submit to examination under oath, her submission of false information on her claim forms, and her involvement in causing the fires. The jury poll was 11-1 for failure to cooperate and 10-2 for prejudice.

Trial Type: Jury

Trial Length: 26 days.

Deliberations: 1 day.

Jury Poll: Mixed poll.

EXPERTS:

Plaintiff: Michael Carter, property appraiser, Fresno.; [Charles Claborn](#), construction/estimates, Fresno.; [Lance Coren](#), claims handler, Prather, (559) 299-0429.; Charles Edwards, M.D., psychiatrist, Doctor's Medical Center of Modesto, Modesto, (209) 533-1654.; Philip Hoile, Ph.D., psychologist, Modesto.; Harinder Toor, construction/estimates, Modesto.

Defendant: [R. Dale Briggs](#), claims management consultant, Questrel Claims Management Inc., Pasadena, (626) 440-9100.; Linda Lynch, Esq., coverage/fraud investigations, Burlingame, (650) 685-9200.

TEXT:

CASE INFORMATION

FACTS/CONTENTIONS

According to Defendant: Plaintiff Rajwinder Kaur, a 50-year-old divorced mother of two teenage sons, suffered two separate fires to her home on the evening of July 17, 2005, both of which were determined to have been intentionally set. Plaintiff submitted claims for both property and contents losses to her homeowner's **insurance** carrier, defendant

Fire **Insurance** Exchange ("FIE"), on June 21, 2006.

When defendant became aware of the suspicious nature of the fires, defendant referred the matter for further investigation and ultimately to coverage counsel for the plaintiff's examination under oath. When plaintiff failed to cooperate for a period of 6 to 7 months, defendant denied plaintiff's claim based in part on her failure to cooperate as required by her policy.

Plaintiff alleged that her failure to cooperate initially was excused or justified due to her language and cultural difficulties (she was Punjabi), and her mental breakdown following the fire.

CLAIMED INJURIES

According to Defendant: Emotional distress.

CLAIMED DAMAGES

According to Defendant: \$240,000 replacement of home; \$73,000 replacement of contents; \$4,000 replacement of outbuilding; \$127,467 for loss of use/alternate living expenses; \$12,000 debris removal and landscaping. Plaintiff also sought punitive damages.

SETTLEMENT DISCUSSIONS

According to Defendant: Demand: \$500,000 prior to trial; Offer: \$25,001 ([CCP § 998](#)).

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