

THOUGHT LEADERSHIP

News

## FARMERS WINS SMOKE & SOOT BAD FAITH CASE IN HARRIS COUNTY

Newsbrief

23 SEP 2015

Farmers recently won a bad faith jury trial in Houston in a homeowners' property damage case arising out of extensive smoke and soot damage to their residence. In *Khushru Dastoor vs. Texas Farmers Ins. Co and Gregory Owen*, No. 2013-69578, in the 80<sup>th</sup> District Court of Harris County, the insured submitted a claim for pervasive smoke and soot damage to the walls of his residence. Farmers denied the claim because a covered cause of loss could not be determined. The insured couldn't identify a fire, electrical damage, lightening, or any other covered cause of loss. Under the policy, smoke and soot damage had to be "sudden and accidental" to be covered. Farmers investigation determined the insured's constant burning of an oil lamp in his fire place for religious purposes was the cause of the loss and denied the claim as not being sudden and accidental. Dastoor hired counsel and sued both Farmers and the adjuster who handled the claim for breach of contract, bad faith, Insurance Code violations and fraud.

Plaintiff's counsel, Robert Collins of Houston, argued the insured didn't have to prove the cause of the smoke and soot damage. He argued the insured only had to prove the loss was sudden and accidental to him. Plaintiff called several expert witnesses who are well known in Texas property cases including CIH Marion Armstrong (Armstrong Forensic Lab in Dallas), Public Adjuster Randell Smith, PA and estimator Stephen Hadhazi, and engineer Claudia Autry. Farmers relied on CIA Michael Possen from Exponent in Oakland, California and estimator Randall Taylor from West Fire Construction in Houston. Prior to submitting the case to the jury, the trial court granted Farmers' Motion for Directed Verdict dismissing the claims against the adjuster and also dismissing the fraud claim against Farmers. Following a jury trial which lasted over parts of two weeks, the jury determined Farmers didn't breach the contract, didn't commit bad faith and didn't violate the Texas Insurance Code.

*Editor's Note:* MDJW Partners Chris Martin and Leslie Tan tried this bad faith case for Farmers and thanks the Farmers team for the opportunity to win the case and also congratulates everyone on the team who contributed to the development of the case and the trial court win.