

The Melito & Adolfsen Law Firm

Arson

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INSURANCE COVERAGE FOR ARSON

Can a business co-owned by an admitted arsonist who pleads guilty to mail fraud in connection with filing a false insurance claim recover under a fire insurance policy? Not possible, right? Well, a federal court in Michigan denied the insurer summary judgment and when the case went to the jury, the jury was charged that the arsonist, who co-owned the torched Dairy Queen with his wife, must have had “exclusive” control of all aspects of the Dairy Queen in order for the insurer to deny coverage based on the arson. The jury found that the arsonist didn’t have exclusive control and the insurance company had to pay. To add insult to injury, the jury found the insurer acted in bad faith by denying the claim. While the trial judge found the bad faith award went too far, it allowed the other findings to stand. Melito & Adolfsen was retained to handle the appeal. Distinguishing the purportedly controlling “exclusive control” case in Michigan and a host of arson cases from around the country involving husband and wife co-ownership of homes, Melito & Adolfsen prevailed upon the Sixth Circuit Court of Appeals to listen to reason and reverse a grossly unfair decision.