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Allstate must pay \$1 million to insured in defamation case

By Allison Retka
08/07/2007

To earn the hefty \$1 million verdict he received Friday from a St. Louis jury, a St. Charles man had to prove his homeowner's insurance company ruined his reputation in a letter denying his claim.

John Johnson, a sheet-metal worker in St. Louis, alleged Allstate Indemnity Co. defamed his character in a February 2003 letter that denied his claim for an insurance payout after his home outside Salem burned down. The letter included statements about misrepresentation of facts, fraud and concealment.

In a weeklong jury trial last week before Circuit Judge Edward B. Sweeney, Johnson's attorney, David Steelman, set out to prove that Roanoke, Va.-based Allstate included statements in the letter that the company knew to be false.

This actual malice was not difficult to prove, Steelman said in a phone interview. He said various portions of Allstate's investigation of the fire were shown to be patently incorrect, including interviews with neighbors and whether Johnson actually lived at the house at the time it caught fire.

Christopher Lang, a Rabbit, Pitzer & Snodgrass attorney for Allstate, did not return calls for comment.

It's fairly common for insurance companies to make mention of fraud when denying a claim, said Steelman, an attorney at Steelman, Gaunt & Horsefield in Rolla. But the companies also are required to back up the statements with detailed explanations and thorough investigations, he said.

Johnson cooperated with Allstate's investigation and did not hire an attorney until after lawyers for the company questioned him under oath about the circumstances of the fire.

"He approached this like so many people do, thinking they were helping him present a claim," Steelman said. "But the evidence was that everything that Allstate did was to try to lay traps to trip him up

and deny his claim. That was part of what interested the jury, I think."

After Allstate denied Johnson's claim, he filed suit to collect insurance money for the fire damages. The case was eventually moved to the U.S. District Court Eastern Missouri, where a federal jury sided with Johnson in fall 2004. Magistrate Judge Audrey G. Fleissig approved the \$81,000 verdict in December 2004.

Despite the payout, the denial letter remained on Johnson's insurance file, preventing him from securing coverage with other insurers, Steelman said. At trial, Jay Angoff, a former state insurance director, testified for the plaintiff about the prolonged damage such a letter can do.

"The reality is, we live in a world where you need insurance," Steelman said. He said his client was not made whole by the insurance money itself.

"It's just how people feel when their reputation is attacked like that," Steelman said. "We wanted the chance to prove without question that the statements they made about him were false."

Sweeney denied Allstate's motion to dismiss the defamation claim on June 25.

Springfield, Mo., attorneys Thomas Hearne and Michael Pivac assisted Steelman on the case.

Johnson's case mirrored a 2000 Missouri Supreme Court case in which another homeowner sued an insurance company for defamation. In *Henry Dale Overcast v. Billings Mutual Insurance Co.*, the company issued a claim denial that directly implicated Overcast in an arson scheme for a fire that burned down his home in 1997. The high court affirmed a jury verdict that found Billings Mutual defamed Overcast when the company wrote, "the loss resulted from an intentional act committed by you or at your direction."

Allstate did not allege Johnson committed arson.

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