



## And The Defense Wins

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DRI members [John Bennett](#), [Stuart Jones](#) and [Matthew Hedberg](#) of **Bullivant Houser Bailey's** Portland, Oregon, office successfully tried to verdict one of the longest civil trials in Clackamas County, Oregon. At stake were claims by the plaintiff, Sohail Masood, that the insurer, Safeco, represented by Bullivant, owed an additional \$2.45 million for damage to his house that was destroyed in an August 2008 fire. Safeco counterclaimed, based on late discovered misrepresentations, for return of over \$11 million paid on the claim. The verdict and subsequent order by the court restored nearly \$10 million to Safeco.

Mr. Masood filed two lawsuits in Oregon Circuit Court against Safeco on his homeowner's insurance policy. The first lawsuit alleged that approximately one week after the fire, Safeco entered into an agreement with Mr. Masood to pay the insurance policy's Extended Dwelling Coverage--without requiring Mr. Masood to replace the damaged property. Safeco disputed that it had agreed to relieve Mr. Masood of this condition of the insurance policy. The second lawsuit alleged that approximately \$3 million in personal property was stolen from an outbuilding on the property in a separate incident. The lawsuits were consolidated into a single proceeding.

Prior to trial, Safeco discovered evidence that Mr. Masood exaggerated the value of claimed dwelling components lost in the fire, including chandeliers, a built-in stereo/AV system and kitchen cabinetry. Safeco amended its pleadings to assert that the policy was void and added a counterclaim for return of amounts already paid.

At trial, Bullivant's forensic document expert testified that certain documents Mr. Masood presented to support his claim were forgeries. The builder of the home, the cabinetmaker and several subcontractors who were involved in original construction identified their own work from photographs taken shortly before the fire of rooms that Masood claimed had been remodeled. Experts contradicted Mr. Masood's representations regarding the quality and value of the light fixtures and the stereo system in the house at the time of the fire.

After three days of deliberations, the jury returned a verdict finding that Mr. Masood intentionally misrepresented the value and quality of the dwelling components at issue. The jury also found that Mr. Masood failed to prove that a theft of property from an outbuilding occurred after the fire.

On August 22, 2011, the trial judge ruled that, based on the jury's finding that the insured intentionally misrepresented his property loss and exaggerated the values, the insurance policy was void, and Mr. Masood was required to repay Safeco almost \$10 million.

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