Inside Fire

May 2013

Whitemore Fire Consultants

952-461-7000

952-461-7100(FAX)

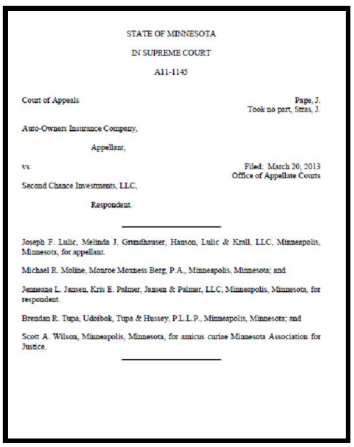
www.whitemorefire.com

What's Inside

WHITEMORE FIRE CONSULTANTS, INC.

Minnesota Supreme Court Rules on Appraisal Panel

The following is a decision that just recently came down from the Minnesota Supreme Court holding than an appraisal panel does not have the authority to determine whether a claim is a "total loss." Interpreting the Standard Fire Insurance Policy language contained in Minn. Stat. 65A.01, subd. 3, the court held that "the district court is the appropriate forum to resolve [that] dispute." Id. At 10. Thus, whenever you have a claim where the insured is claiming a total loss (and you dispute this), you must file an action in district court to get it resolve.



STATE OF MINNESOTA

IN SUPREME COURT

A11-1145

Court of Appeals — Page, J. Took no part, Stras, J.

Auto-Owners Insurance Company,

Appellant,

vs.

Second Chance Investments, LLC,

Respondent.

Filed: March 20, 2013
Office of Appellate Courts

Joseph F. Lulic, Melinda J. Grundhauser, Hanson, Lulic & Krall, LLC, Minneapolis, Minnesota, for appellant.

Michael R. Moline, Monroe Mexmess Berg, P.A., Minneapolis, Minnesota; and

Jeanenne L. Jansen, Kris E. Palmer, Jansen & Palmer, LLC, Minneapolis, Minnesota, for respondent.

Brendan R. Tupa, Udoibok, Tupa & Hussey, P.L.L.P., Minneapolis, Minnesota; and

Scott A. Wilson, Minneapolis, Minnesota, for amicus curiae Minnesota Association for Justice.

State of Minnesota
In Supreme Court
A11-1145

Court of Appeals — Page J.
Took no part, Stras J.

Auto Owners Insurance Company,
Appellant

vs. — Filed: March 20, 2013
Office of Appellate Courts

Second Chance Investments, LLC
Respondent,

SYLLABUS

The appraisal provision in the Minnesota standard fire insurance policy, Minn. Stat. §65A.01 subd. 3 (2012), does not provide parties the statutory right to have an appraisal panel decide whether a claim involves a total loss.

Affirmed.

OPINION

PAGE, Justice.

This case presents the question of whether the Minnesota standard fire insurance policy, Minn. Stat. §65A.01 (2012) gives a party to a fire insurance policy the right to have an appraisal panel decide whether a claim involves a total loss. We hold that a part has not such right because the plain language of the appraisal provision in Minn. Stat. §65A.01, subd. 3, removes disputes "in case[s] of total loss on buildings" from the statutory appraisal process. Because the dispute here is over whether the insured building was a total loss, we affirm.

Respondent Second Chance Investments LLC (SCI), purchased a fire insurance policy from appellant Auto-Owners Insurance Company that became effective on September 26, 2008, and covered a building with a limit of insurance set at $2,095,500. The valuation clause in the policy, consistent with Minnesota standard fire insurance policy, provides that "[i]n the

Continued on Page Two

Minnesota Supreme Court Rules on Appraisal Panel continued

event of a total loss[] to the dwelling . . . [Auto Owners] will pay an amount equal to the limit of insurance." According to SCI's initial proof of loss, on November 12, 2008, the building suffered extensive fire damage. Seeking payment of the limit of insurance, SCI filed a proof of loss claiming that the building was a "total loss."

On January 12, 2009, EFI Global issued a written report on the loss on behalf of Auto-Owners. In the report, while noting that the building's shell, exterior walls, roof, and floor assembly were reusable, EFI nonetheless concluded that salvaging these parts would not be economical and that the best option would be to demolish the building frame "from the top down." The EFI report did not include any cost estimates. On January 22, Lindstrom Restoration issued a report on behalf of SCI estimating the cost of restoring the building at $1,654,841, which is approximately $450,000 below the policy limit. However, the estimate did not include the cost of restoring the roof, nor did it include fees for a licensed structural engineer, which had been recommended in EFI's report. SCI contends that the Lindstrom report is incomplete and does not fully reflect the true cost of restoration.

On March 9, Auto-Owners rejected SCI's proof of loss, contending that it did not state the "Actual Cash Value"[1] of the loss as required by the policy or provide a written estimate of repair to support the claim. Auto-Owners subsequently paid the outstanding mortgage balance of $1,038,677 on the building. On July 27, SCI filed a second proof of loss which included an estimate from AAA Exteriors in the amount of $2,127,000—a cost that exceeded the policy limit. Auto-Owners again rejected the proof of loss, stating that it failed to set out the "Actual Cash Value" of the loss and that the written estimate of repairs needed to be supported by a trade breakdown of rebuilding costs.

On October 8, SCI sent a letter to Auto-Owners asserting that the terms of the policy did not require SCI to state an "actual cash value" other than the limit of insurance because SCI was claiming a total loss. In the letter, SCI demanded that Auto-Owners pay $616,697.74, which was not in dispute and was the difference between the mortgage balance already paid by Auto-Owners and the amount set out in the Lindstrom report. SCI further demanded that Auto-Owners pay the remaining difference between the policy limit and the undisputed amount within 30 days. In response, Auto-Owners attempted to negotiate a release of all claims arising from the fire incident by paying the undisputed amount plus certain miscellaneous costs. SCI rejected the offer, and on October 28, Auto-Owners paid SCI the undisputed amount.

The next day, Auto-Owners wrote to SCI demanding an appraisal pursuant to the policy and Minnesota law. SCI responded that appraisal was not appropriate under the policy language as it was claiming a total loss, nut agreed to proceed with an appraisal to preserve its rights. On February 24, 2010, Auto-Owners gave notice that it would not participate in the appraisal process because SCI did not agree that the appraisal panel could render a binding decision as to whether the loss was total. Consistent with that notice, Auto-Owners did not participate in the appraisal that followed.

Ultimately, Auto-Owners filed a complaint in district court seeking an order declaring the rights of the parties under Minnesota law and compelling SCI to submit the issue of whether the building was a total loss to a binding determination by an appraisal panel. In its answer, SCI took the position that an appraisal was not appropriate when the loss at issue is total. SCI also filed a counterclaim alleging that Auto-Owners breached its obligations under the policy when it refused to pay the limit of insurance as required when there is a total loss. Auto-Owners moved to compel SCI to submit to a binding appraisal. SCI moved for partial summary judgment on the issue of whether the loss was total and for an order granting leave to amend its counterclaim to include claims for prejudgment interest and taxable costs.

The district court denied Auto-Owners' motion to compel appraisal and dismissed its complaint, including that "[t'he parties did not present and this Court did not locate any case in which a Minnesota court held that a total loss was an issue for appraisers." The district court also denied SCI's motion for partial summary judgment, essentially concluding that there were genuine issues of material fact as to whether the building was a total loss. Finally, the district court granted in part SCI's motion to amend the counterclaim to include taxable costs. The court of appeals affirmed, concluding that a court, rather than an appraisal panel, is the appropriate forum to determine whether the property suffered a total loss. *Auto-Owners Ins. Co. v. Second Chance Invs., LLC*, 812 N.W.2d 194, 201 (Minn. App. 2012).

We granted Auto-Owners' petition for review on the sole issue of whether a party to a fire insurance

Minnesota Supreme Court Rules on Appraisal Panel continued

Policy has the statutory right to have an appraisal panel decide whether a claim involves a total loss. By the way of background, Minn. Stat. §65A.01, which is commonly referred to as the Minnesota standard fire insurance policy, was enacted in 1895. Act of Apr. 25, 1895, ch. 175, § 53, 1895 Minn. Laws 392, 417-22. The statute mandates that all fire insurance policies issued within Minnesota "confirm as to all provisions, stipulations and conditions" within the statute. Minn. Stat. § 65A.01, subd. 1. The statute is considered a "valued policy" law. *See Nathan v. St. Paul Mut. Ins. Co.,* 243 Minn. 430, 433, 68 N.W2d 385, 388 (1955) (citation omitted) (internal quotation marks omitted). Such laws were enacted in response to the practice of fire insurance companies writing excessive amounts of coverage, collecting high premiums, and then reducing the amounts of recovery when losses occurred. *See* Winfield V. Alexander, *Insurance: The Wisconsin "Valued Policy" Law,* 10 Wis. L. Rev. 248, 248 (1934-35). Under a valued policy law, the insurer is less apt to set an excessively high insurable value because when a total loss occurs, the insurer must pay that insurable value and cannot reduce the amount of recovery. *Id.* At 264. Indeed, we have recognized that the purposes of the Minnesota standard fire insurance policy are "[t]o prevent overinsurance by requiring prior valuation" and "avoid litigation by prescribing definite standards of recovery in case of total loss."

. . . Minnesota standard fire insurance policy are "[t]o prevent overinsurance by requiring prior valuation" and "avoid litigation by prescribing definite standards of recovery in case of total loss."

Nathan, 243 Minn. at 433-34, 68 N.W2d at 388. Thus, in determining whether the insurer is required to pay the limit of insurance, the key inquiry is whether a total loss has occurred as opposed to whether the amount of loss or damage meets certain threshold.

Consistent with these purposes, the standard fire insurance policy requires the insurer to pay the policyholder an amount equal to the limit of the insurance in case of a total loss. Minn. Stat. § 65A.01, subd. 5 ("No provision shall be attached to or included in such policy limiting the amount to be paid in case of a total loss on buildings by fire, lightning or other hazard to less than the amount of insurance on the same."). In other words, the statute requires the parties to a fire insurance contract to "agree in advance on a valuation of the property to be insured, and, in the absence of fraud, this valuation is binding" as the amount to be paid when the loss is total. *Nathan,* 243 Minn. At 433, 68 N.W.2d at 388. In contrast, if the property is partially destroyed, the insured recovers the actual amount of loss, whatever that is. *Brooks Realty, Inc. v. Aetna Ins. Co.*, 276 Minn. 245, 252, 149 N.W.2d 494, 499 (1967). In Minnesota, the standard for determining total loss under the standard fire insurance policy is as follows:

A building is not a total loss . . . unless it has been so far destroyed by the fire that no substantial part or portion of it above ground remains in place capable of being safely utilized in restoring the building to the condition in which it was before the fire . . . . There can b no total loss of a building so long as the remnant of the structure left standing above ground in reasonably and safely adapted for use (without being taken down) as a basis upon which to restore the building to the condition in which it was immediately before the fire; and whether it is so adapted depends upon the question [of] whether a reasonably prudent owner of the building, uninsured, desiring such a structure as the one in question was before the fire, would, in proceeding to restore the building, utilize such standing remnant as such basis. If he would, then the loss is not total.

Nw. Mut. Life Ins. Co. v. Rochester German Ins. Co., 85 Minn. 48, 52, 88 N.W. 265, 267 (1901) (internal quotation marks omitted). In applying this standard, we have said that it is necessary to "adopt a standard of human conduct, and that is ,what would a prudent person do under such circumstances?" *Id.* at 62, 88 N.W. at 271.

On appeal, Auto-Owners argues that the appraisal provision in Minn. Stat. § 65A.01, subd. 3, unambiguously provides that a part may demand an appraisal unless the loss ha already been determined to be total. According to Auto-Owners, when the parties dispute whether a loss is total, that question can be submitted to an appraisal panel for a binding decision. In contrast, SCI contends that the exception in the appraisal provision precludes either party from demanding an appraisal even when the parties dispute whether a loss is total. Giving the words of section 65A.01, subdivision 3, their plain meaning, we conclude that Auto-Owners' argument fails.

The parties' dispute presents a question of statutory interpretation, which we review de novo. *See Am. Nat'l Prop. & Gas. Co. v. Loren,* 597 N.W.2d 291, 292 (Minn. 1999). "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645,16 (2012). Our first inquiry is whether the statute is ambiguous. *Zurich Am. Ins. Co. v. Bjelland,* 7 01 N.W.2d 64, 68 (Minn. 2006). When a statute's language is unambiguous our role is to give effect to the statute's plain meaning. *Tuma v. Comm'r of Econ. Sec.,* 386 N.W.2d 702, 706 (Minn. 1986). If the language as applied is "clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit." Minn. Stat. § 645.16.

We read the plain language of Minn. Stat. § 65A.01, subd. 3, to be unambiguous. Subdivision 3 includes a standard appraisal provision, which provides, in relevant part:

> In case the insured and this company, *except in case of total loss on buildings,* shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand.

Minn. Stat. § 65A.01, subd. 3 (emphasis added). The parties' central dispute is over the meaning of the language "except in case of total loss on buildings."

Section 65A.01, subdivision 2, lists two types of disputes that trigger a party's right to demand an appraisal: failure of the insured and the insurer to agree as to (1) the actual cash value or (2) the amount of loss. Thus, a prerequisite to the application of the appraisal provision is that a dispute must exist between the parties. Given this prerequisite, Auto-Owners' argument that total loss is excluded from the appraisal provision only when total loss has already been determined failed on its face because, as noted, there must be a dispute between the parties before the appraisal provision is triggered. If total loss has already been determined, there can be no dispute between the parties that will trigger the appraisal provision. Once total loss has been determined, the insurer is required to pay the limit of insurance, ending any possible dispute. Therefore, under Auto-Owners' interpretation, the exception would be rendered superfluous because it would only preclude a party from demanding an appraisal when (1) the parties are in agreement and (2) the amount to be paid is already fixed at the limit of insurance accoding to the valuation clause of section 65A.01. *See* Minn. Stat. § 645.17(2) (2012) (noting that "the legislature intends the entire statute to be effective and certain").

Auto-Owners' argument also fails for a more important reason. Because Auto-Owners' interpretation would give no effect to the exception within the appraisal provision, it would in effect amend section 65A.01, subdivision 3, by deleting the words "except in case of total loss on buildings" from the appraisal provision. Clearly, the Legislature did not intend the exception to have no meaning. We have held that "'[a]n exception in a statute exempts from its operation something that would otherwise be within it.'" *City of St. Louis Park v. King,* 246 Minn. 422, 429, 75 N.W.2d 487, 493 (1956) (quoting *State v. Goodman,* 206 Minn. 203, 207, 288 N.W. 157, 159 (1939)). The language "except in case of total loss on buildings," when read in context with the rest of the appraisal provision sentence, can only mean that when the dispute is about total loss, the appraisal provision is not triggered. In other words, the exception that relates to total loss clearly exempts from the appraisal provision's operation disputes as to a total loss. Therefore, when the parties fail to agree as to whether a loss is total under a policy governed by Minn. Stat. § 65A.01, the district court is the appropriate forum to resolve their dispute.

Reading section 65A.01 as a whole supports our holding. *See* Minn. Stat. § 645.16 (noting that "[e]very law shall be construed, if possible, to give effect to all its provisions"). The language "except in the case of total loss buildings" is found in two other provisions within section 65A.01, subdivision 3: (1) the provision setting forth the requirements for giving notice of a claim and (2) the provision that explains how the amount of loss is to be estimated. When the language is used throughout a statute, we presume "that it is used with the same meaning until the contrary is shown." *Christgau v. Woodlawn Cemetery Ass'n,* 208 Minn. 263, 275, 293 N.W. 619, 6 24 (1940). The notice provision requires the insured to provide a notice of a claim "setting forth the value of the property insured, *except in case of a total loss on buildings* the value of said buildings need not be stated." Minn. Stat. § 65A.01, subd. 3 (emphasis added). Applying Auto-Owners' interpretation to the same language in the notice provision would lead to ab-

Congratulations!

Whitemore Fire Consultants, Inc. is pleased to announce that Brian Haag, CFI, Senior Fire Consultant was recently elected as President of the International Association of Arson Investigators—Minnesota Chapter fir a two-year term at their Annual Meeting and Seminar in St. Cloud, Minnesota. Brian has served the organization previously as a Board of Director. Brian is also the Fire Chief for the Annandale Fire Department.

Brian has been a Senior Fire Consultant with Whitemore Fire Consultants since 2001. Please join us in congratulating Brian on his newly elected position.

From Our President

There has been so much happening over the past several weeks. First of all, I want to extend my personal congratulations to Brian Haag for his recent election as President of the IAAI-MN Chapter. I have long be a strong advocate of the IAAI, serving as International President in 1993-1194. Brian has worked hard bringing his skills and qualifications on behalf of the IAAI. We are proud of Brian's accomplishment and will support him throughout his year as president.

I have also had the privilege to work with two groups over the past month, the Dakota County Fire Investigation Task Force, comprising of all of the Dakota County Fire Investigators who represent the cities of Burnsville, Rosemount and Farmington. Together as an investigation community, we all work towards finding the facts of each and every fire. Thank you for allowing me to be a part of your program.

I had the opportunity to present to DeSmet Mutual Insurance Company a five-day program on fire investigation and how it relates to the claims adjuster. Over 300 claims adjusters and agents as well as administrative staff attended the program held in DeSmet, South Dakota at their home office. I'd like to thank DeSmet for inviting me to be a part of their annual meetings and for their hospitality during my time visiting with their adjuster and agents.

Congratulations to Sgt. Candice Jones of the St. Paul Police Department for obtaining a confession for a recent fire at the Grand Ole Creamery and Spa Gabriella in St. Paul. Earl Carlos Nystrom , an employee of the Grand Ole Creamery, pled guilty to Second Degree Arson and is awaiting sentencing. Whitemore Fire Consultants, Inc. investigated this loss along with the St. Paul Police Department/Fire Department on behalf of the insurance carrier.

Robert B. Whitemore, CFI

surd results. *See* Minn. Stat. § 645.17 (1) (noting that in ascertaining legislative intent, courts should presume that "the legislature does not intend a result that is absurd, impossible of execution, or unreasonable"). First, at the time the insured is required to give notice of a claim, it would be highly unusual for total loss to have already been determined. Second, if total loss has already been determined, there would be no practical purpose in requiring the insured to provide notice to the insurer because the claim would have already been resolved. Additionally, the estimate provision states that the "amount of said loss or damage, *except in case of total loss on buildings,* [is] to be estimated according to the actual cash value of the insured property,." Minn. Stat. § 65A.01, subd. 3 (emphasis added). Again, Auto-Owners' interpretation of the language "except in case of total loss on buildings" as applied to the estimate provision renders the exception meaningless and flies in the face of the fundamental principle underlying a valued policy law: when the loss is determined to be total, the payout to the insured is fixed at the limit of their insurance. Thus, when total loss has been determined, an estimate would serve no purpose. In sum, it would be impossible to give meaning to the provisions of section 65A.01, subdivision 3, as discussed above if we were to accept Auto-Owners' reading of the language "except in case of total loss on buildings."

In conclusion, we hold that the plain language of the appraisal provision in Minn. Stat. § 65A.01, subd. 3, removes disputes "in case[s] of total loss on buildings from the statutory appraisal process.[2] In light of our holding, we affirm the denial to Auto-Owners' motion to compel appraisal and dismissal of Auto-Owners' complaint.[3]

Affirmed.

STRAS, J. took no part in the consideration or decision of this case.

[1]According to the policy, the "[a]ctual cash value" is defined as "the cost to replace damaged property with new property of similar quality and features reduced by the amount of depreciation applicable to the damaged property immediately prior to the loss."

[2]Auto-Owners further contends that (1) an appraisal panel has the authority to render a binding decision as to whether a loss is total because deciding the "amount of loss" necessarily includes a determination of whether the loss is total or partial, and (2) that its position is consistent with the purposes underlying the standard fire insurance policy. Because we hold that Minn. Stat. § 65A.01, subd. 3, removes disputes as to total loss from the statutory appraisal process, we have no need to address these contentions.

[3]We emphasize that nothing in our opinion diminishes the important of appraisal as a means of securing a "plain, speedy, inexpensive and just determination of the extent of the loss.'" *Quade v. Secura Ins.*, 814 N.W.2d 703, 707 (Minn. 2012) (quoting *Kavli v. Eagle Star Ins. Co.*, 206 MInn. 360, 364, 288 N.W. 723, 725 (1939)). Indeed, t he Legislature has recognized the benefit of appraisal by making appraisal provisions mandatory in insurance policies covering fire and hail damage. *See* Minn. Stat. § 65A.01, 65A.26 (2012). We have also recently acknowledged that there is a strong public policy favoring appraisals. *See Quade*, 814 N.W.2d at 707. However, we are not in a position to choose between public policy choices when section 65A.01, subdivision 3, unambiguously addresses the question before us. We are bound by the plain language of the statute. *See Sanchez v. State*, 816 N.W.2d 550, 556 (Minn. 2012) ("An unambiguous statute must be construed according to its plain language.")

Recalls

Gerbings Recall Heated Jacket Liners

The United States Consumer Product Safety Commission in cooperation with Gerbings, LLC of Stoneville, North Carolina has voluntarily recalled approximately 9,900 Gerbings 12-volt heated jacket liners. A defective wire connector can cause the jacket line to overheat, posing a burn hazard to consumers. Gerbings has received two reports of the jacket liners overheating, causing minor dime-sized burns to consumers' backs, resulting in blisters.

This recall involves Gerbings and Harley-Davidson® black nylon, 12-volt, heated jacket liners. The jacket liners heat up when plugged into a vehicle, such as a motorcycle or snowmobile. "Gerbing's Heated Clothing" or "Harley Davidson®" is printed on the front left chest of the jacket liners. The Gerbing's jacket liners have model number JKLN and PO# 3796 and Harley-Davidson® jackets have model number 98324-09VM and GM32873, GM32874, GM34188, GM34189, GM34190 or GM34191. The model number, PO number and "Use only 12 Volts" are printed on a label sewn inside next to the jacket liner's front zipper.

The jacket liners were sold at Harley-Davidson® dealerships. Eagle Leather and other sporting good, retail stores and motorcycle shops nationwide from April 2011 through December 2012 for between $200 and $240.

Consumers should immediately stop using the jacket liners and contact Gerbings, LLC for a free repair or replacement liner. For more information, visit the firm's website at: www.gerbing.com.

All Experts Are Not the Same

by John (Jay) Freeman, MS, PE, CFEI

Difference Between Experts

Experts, like many other professionals, come in all shapes and sizes with different skills, personalities, and costs. We all know that in every profession there are different levels of quali8ty of work, whether it is a contractor, a mechanic, a lawyer, or a doctor. The same is true with forensic experts. One of the most important abilities for an expert is the gift of communication. Not only does an expert have to have the experience and knowledge to solve a problem, but it is imperative that they have the ability to communicate and educate others. First, the expert must be able to communicate their findings in an understandable manner to the client. The client needs to make decisions based on that information. Secondly, the expert must be able to communicate findings to the opposing side in a deposition. Thirdly, they must be able to communicate their findings and opinions to a jury so they can understand what the expert is saying and hopefully, make a reasonable decision based on that testimony.

How To Pick An Expert

The factors that are considered in hiring an expert include, but are not limited to: price or cost, experience, number of cases they have worked on, specific expertise, specialized training, education and courtroom or deposition testimony experience. In more recent times, with the downturn in the economy, the hourly rate or cost of an expert has become a consideration. Before hiring an expert, you want to not only look at their hourly rate, but also what the total job is going to cost. There have been cases where an expert did not have a lot of qualifications in a specific area and spent three days on the scene of an explosion and still had not determined the cause. A gas expert was brought in and the problem was solved within two hours. (This is why you do not go to an internal medicine doctor for heart surgery.) Even though the gas expert had a higher hourly rate than the fire origin and cause expert, the net cost was significantly less for the gas expert. In the old days it used to be said that "an expert" was someone that was brought in from out of state. The dictionary defines an expert as, *someone having or displaying special skill or knowledge derived from training or experience.*

Does He Play Well With Others?

In virtually all of the investigations that are done today, multiple parties are put on notice. There can be two or three experts or as many as 10 or 20 experts present at a loss site. It is important that the experts "play well together." An expert that is known, respected, and liked by others can not only speed up the process of an inspection and make it more pleasant, but make it more likely that all of the information necessary to form an opinion is gathered. If the expert is respected, his suggestions for procedures for the examination and testing will carry more weight and will more likely ensure that the work is done in the field or laboratory is done properly. The nature of the forensic investigation creates an adversarial scenario. However, this should not mean that the work can not be accomplished in a professional, thorough, and efficient manner.

Does The Firm Have People With More Than One Area of Expertise?

It is very helpful to have a firm with multiple areas of expertise. Situations arise with many losses where, for instance, in a fire you many need an electrical engineer, a gas engineer, a structural engineer and/or a fire suppression system specialist? When you hire an individual, find out what the capability of that firm's experts. On a large loss, the "team" can be brought in to assist.

What Kind of Facilities Does the Expert Have Access To?

It is important that the expert have access to facilities for laboratory examinations and testing. Does the expert have the necessary space and equipment to conduct the examination and testing?

References

When you are looking for an expert, talk to others to see who they recommend. These investigations typically start out with a scene examination with the insurance adjuster as the client. Subsequently, it moves up to litigation and a lawyer is retained. If it is likely for the case to go to deposition or trial, it is very helpful to talk with lawyers to find out who they like and respect as experts.

Summary

There are many factors to consider when hiring an expert. With the slowdown of the economy, there seem to be more people trying to get into the forensic field. Consider all the variables and hire the person or firm that will do the best job for your case.

Jay Freeman, MS, PE, CFEI is President of Advanced Forensic Engineering, Littleton, CO 80125. For more information regarding Jay or his firm, please visit their website @www.advancedei.com for more information regarding his firm.

RECALLS

Manchester Tank & Equipment Company Recalls Propane

Manchester Tank & Equipment Company of Elkhart, Indiana in cooperation with the Consumer Product Safety Commission has voluntarily recalled approximately 7,500 100-lb. Propane Cylinders. The fuel can leak from the thread connection between the cylinder and the valve, posing a fire hazard if exposed to an ignition source. No incidents have been reported.

The recalled Manchester Tank & Equipment Company cylinders included in the recall were manufactured January through September 2012. The date of manufacture is printed on the collar by month and year, so "6 * 12" represents June 2012. The name Manchester and the water capacity "WC238#" are also pressed into the collar. These gray 100-pound DOT propane cylinders measure about 41" high and about 15" in diameter. Manchester 100-pound propane cylinders with a green dot on the hand-wheel on the top of the cylinder are not included in the recall.

The cylinders were sold nationwide at propane dealers and distributors, hardware stores, including Ace, True Value and Tractor Supply, welding equipment supply stores, farm and home stores, and equipment rental outlets from January 2012 through March 2013 for between $140 and $170.

Consumers should stop using the propane cylinders and call Manchester or go to the firm's website for instructions on having their gas cylinder inspected by a qualified propane equipment dealer and repaired if needed. A list of propane equipment distributors, RV distributors and retail distributors are listed on the firm's website at www.mantank.com on the "Distributors" page.

Home Depot Recalls CE Tech Riser Cable

Home Depot U.S.A., Inc. of Atlanta, Georgia in cooperation with the Consumer Product Safety Commission has voluntarily issued a recall of the CE Tech 1000-ft. Riser Cable. The riser cable does not meet fire resistance standards for riser cable, posing a fire hazard. No incidents have been reported.

This recall involves 1,000 ft. CE Tech riser cable sold in boxes of 1,000 ft. lengths. It is intended to run between floors of a building as data cable. This type of cable must self-extinguish in a fire. The cable is gray and marked (UL) E316395. The cable's box is blue and black and is marked CE Tech 1,000 ft. riser cable, Cat 6 23-4.

The riser cables were sold exclusively at Home Depot stores nationwide from January 2013 through February 2013 for about $100.

Consumers should remove the recalled cable and return it to the Home Depot for a full refund. For more information, visit the firm's website at: www.homedepot.com.

RECALLS

TC Electric Recalls Base Guitar Amplifier

TC Group Americas, of Kitchener, Ontario, Canada in cooperation with the Consumer Product Safety Commission has voluntarily issued a recall Bass Guitar Amplifiers. A nut inside the chassis can come loose and fall between the electrical coils, posing an electrical shock hazard to consumers.

This recall involves tc electronic 250 W bass guitar amplifiers with model BH250 and serial numbers 1204763 through 12404375. The amplifiers are about 8.6 inches wide, 2.5 inches high and 9 inches deep and have a red front panel. The model and "tc electronic" are printed on the front of the amplifier. The serial number is located on a white sticker on the back of the amplifier. Approximately 388 units were sold at music and instrument stores nationwide and online from August 2012 through January 2013 for about $450.

Consumers should immediately stop using the amplifier, unplug the unit and contact tc electronic for instructions on free shipping and repair of the recalled product. For more information, contact tc electronic; at (800) 349-4699 from 9 a.m. to 5 p.m. ET Monday through Friday, or online at www.tcelectronic.com and click on BASS at the top of the page then on BH250 and select BH250 RECALL for more information. Consumers can also send an email to BH250@lifetimeservice.com.

3M Recalls Filtrete Room Air Purifiers

3M Company of St. Paul, Minnesota in cooperation with the Consumer Product Safety Commission has voluntarily recalled approximately 10,000 Filtrete™ room air purifiers. The ion generator in the air purifiers can overheat posing a fire hazard.

This recall involves 3M air purifiers branded Filtrete. The air purifiers are white, made of plastic and plug into the wall. They measure about 19 inches tall by 8 inches wide with a 13 inch tall by 4.5 inch wide air filter. They have a two-speed fan knob with Filtrete embossed on the top. The two recalled models are Ultra Quiet, number FAP00-RS, and Maximum Allergen, number FAP00-L, which was sold only at Lowe's stores. The products serial numbers begin with E, F, G, H, I or J and the model and serial numbers are located on the bottom of the product. 3M has received two incident reports; one of an air purifier overheating and another of an internal room air purifier filter catching fire. No injuries or property damage has been reported.

The Filtrete™ air purifier was sold at Ultra Quiet at Ace Hardware, Bi-Mart, Do It Best, Fred Meyer, Handy Hardware Wholesale, Nuthouse, Orchard Supply, Orgill Bros., Petco, Rite Aid, Strosniders, Theisen Farm & Home, True Value Hardware stores nationwide, and online at Amazon.com and others. Maximum Allergen sold only at Lowe's stores. The FAP00-RS model was sold from November 2008 through January 2013, and the FAP00-L model was sold from October 2012 through January 2013, both for about $60.

Consumers should immediately unplug the recalled air purifier and contact 3M to obtain a prepaid shipping box to return the product for a free replacement. For more information contact 3M Company via their website at www.filtrete.com/roomairpurifiers.

Whitemore Fire Consultants, Inc.

P.O. Box 1261
Prior Lake, Minnesota 55372

Phone: 952-461-7000
Fax: 952-461-7100
Email: info@whitemorefire.com

WHITEMORE
FIRE CONSULTANTS, INC.

We're On the Web
www.whitemorefire.com

Submit Your Loss Online

It's Easy …… go to the Whitemore Fire Consultant's Website:

www.whitemorefire.com

Click on "Submit a Loss" tab . . . .

Complete the online form and press "submit" and you will receive an electronic confirmation of our receipt of your loss request. You will also receive a response from our on-call representative as well as a follow-up all during the next business day.

Are You On Our Distribution List?

Don't miss a single issue of *Inside Fire,* our quarterly newsletter or our fire-related recall notifications. If you currently are not on our email distribution list, visit our website at:

www.whitemorefire.com

Click on "registration", complete the form and press "submit". It's easy and you won't miss a thing!