

# Nelson & Dahle, P.C.

316 North 26th Street Billings, Montana 59101 p: 406.867.7000

## FEDERAL COURT

Scott v. Mountain West Farm Bureau Mutual Ins., CV 99-19-H, 11/20/03.

VERDICT: Defense, insurance bad faith, arson.

A Helena jury rejected Norm & Darlene Scott's bad faith claims against Mountain West Farm Bureau Mutual Ins., finding that a fire on their property had been intentionally set by them.

On 8//18/96 the Lakeside Volunteer FD responded to a fire at Scotts' home on Canyon Ferry Drive near Helena. The 1930s home on 20 acres was only partially burned but declared a total loss.. Adjuster Rick Gaines examined the home and found the fire pattern suspicious. Randolph Harris concluded that it was incendiary, but Scotts accused him of planting evidence. A private investigator found evidence of financial distress and statements of Scotts that they had been joking that they should burn the place. The State Fire Marshall left the cause undetermined, but had postulated an accidental theory. Scott claimed that he had replaced parts on the oil furnace in the days before the fire. 15 days after the fire Scotts had the home demolished and claimed that the insurer had given permission. Mountain West (represented by a different law firm in the underlying claim) paid \$75,000 dwelling and \$52,000 contents policy limits. Scotts sued in 1999 alleging bad faith. Mountain West defended on grounds that Scotts had committed arson and had committed fraud in the contents claim and in destruction of the property. The State Fire Marshall submitted an expert disclosure in 7/00 stating that the cause of the fire was incendiary. Chris Rallis's report stated that the cause was arson by Scotts. In 8/03 an estranged family member of Scotts came forward to disclose that she knew that they had been near the fire scene minutes before and heard admissions about the fire. Mountain West's \$10,000 settlement offer was then withdrawn.

Plaintiffs' experts: none.

Defendant's experts: Retired State Fire Marshall Richard Levandowski; Randolph Harris, Denver (fire cause/origin); Chris Rallis, Sioux Falls (fire cause/origin).

Jury request, \$192,000; jury suggestion, 0.

John Doubek (Doubek & Pyfer), Helena, for Scotts; Randall Nelson (Nelson & Dahle), Billings, for Mountain West.

