Article C

\$2M case to decide if fire was intentional

Horrifying accident or cunningly devised escape? This question lies at the heart of Tony Morganelli vs. Sandstone Insurance Group.

On August 14, 2007, Tony Morganelli of Longstreet, SC, watched as flames engulfed her restaurant. Her livelihood, her father's legacy, everything she had worked for was devoured by the inferno. Now Morganelli is suing Sandstone Insurance Group for an alleged breach of contract when they failed to pay her \$2 million claim. However, Sandstone maintains the fire is an intentional loss, claiming Morganelli started the fire herself under extreme financial distress, thereby voiding the contract.

The Seventeenth Judicial Circuit Court of Common Pleas convened on March 10 to resolve the dispute. The Honorable Jay Vincent presided. The plaintiff, Tony Morganelli, was represented by attorneys Benjamin Rabin, Mary Grace Glenn, and Nick Satily, and defense attorneys Keith Owen, Tina Wanzabi, and Marireb Kangkar represented Sandstone Insurance Group.

"I didn't burn it down," Morganelli said. "That restaurant has been in my family for two generations. I would never do anything to jeopardize my family's legacy."

Her father began the restaurant 46 years ago. When he passed away in 1992, Morganelli renamed it Big Tony's Barbeque Restaurant to honor him. Soon after, she received a loan to move the stagnating business close to the local textile plant, the economic hub of Longstreet.

Business was booming, and Morganelli was able to repay the loan six years early. When she applied for another loan to install a sports bar, the bank readily agreed to a \$400,000 loan.

"Then the unthinkable happened," Morganelli said.

The textile plant closed in August 2006, plunging the entire city sector, including Big Tony's, into financial turmoil. Morganelli's Profit and Loss Standard shows that in the 12 months between the plant's closing and the fire, her restaurant was in the negative for nine months. As the restaurant struggled, Morganelli began missing loan payments. She stood to lose everything if the loan defaulted; however, Chase Clarkson, senior loan officer for TK Bank, stated that the bank would not have foreclosed because of Morganelli's excellent payment record on her previous loan.

In the two months before the fire, the restaurant had actually recovered enough to make a small profit. But on the night of the fire when Clarkson went to collect a loan payment, Morganelli was unable to pay. When Peyton Willis, former assistant manager of Big Tony's, left at 10:30 p.m., the restaurant owner was still meeting with Clarkson.

"I remember seeing Tony very upset," Willis testified.

According to Morganelli, as she closed up later that night, a black-dressed figure entered the restaurant, demanding money. She refused, and a struggle ensued, breaking an alcohol bottle and knocking over candles. Interestingly, Clarkson testified to seeing her client blowing out the candles as she left. Morganelli then chased the robber outside but was unable to catch him. No one else saw the robber, but a string of recent robberies in the area gives the story credibility. When Morganelli turned around, her father's legacy was engulfed in flames.

Willis, returning to retrieve her car keys, said she found Morganelli "emotionless, watching everything she built up from the ground completely destroyed. I was completely shocked." Willis asked her if she had called 911. She said no. The defense considers this neglect, another condition rendering her policy void.

"There was nothing I could do to stop the fire," Morganelli defended herself.

Pat Murphy, a 30-year fire investigator for the Longstreet Fire Department, conducted the investigation. Physical evidence, including a char-depth analysis test, which examines burn marks to determine a fire's origin, established the origin in the dining area, consistent with Morganelli's story but also with the defense's claim that she set the fire herself. Murphy did not look into motive.

"Nothing in Miss Morganelli's demeanor indicated she was lying," he said. "Her story matched the evidence."

When Drew Bridges, Sandstone insurance agent and claim manager, first read Murphy's report, she suggested Sandstone pay the claim. But Sandstone delayed its decision until Alex Ross, fire investigator and former employee of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), could conduct her own investigation. When she tried to perform an on-site investigation, Ross discovered Morganelli had demolished the building. She found no ordinance requiring this, as Morganelli claims exists. According to Sandstone's insurance policies, policyholders must allow Sandstone to inspect the insured location at any time, including during claim investigations. However, Morganelli delayed demolition until 11 weeks after the fire and was unaware that a second investigation was underway.

The plaintiff discredited Ross' testimony by pointing out that, not only does she

spend much time writing fire fiction novels, but her firm also receives 75 percent of its annual income from Sandstone. Thus she would be likely to side with them. But Ross based her most important discovery on the published ATF standard of alcohol burn rates. According to this standard, burn patterns as large and deep as those Murphy found in Big Tony's would require 10 to 20 bottles of liquor, instead of the one Morganelli claims was broken. Ross also investigated motive, concluding that Morganelli's struggling business and the prospect of an easy \$2 million provides a definite financial motive for her burning the restaurant.

Morganelli heard nothing from Sandstone for more than 20 weeks after she filed her claim—from August 2007 to January 2008. Nick Satily, closing attorney for the plaintiff, argued, "Time is a weapon for Sandstone. . . . Sandstone was looking for a way out." Sandstone is required by law to decide claims in a "reasonably prompt amount of time," and he asserted that Sandstone wrongfully denied Morganelli's claim after a five-month delay. In his closing argument defense attorney Marireb Kangkar countered that it was, in fact, Morganelli who breached the contract by intentional loss, neglect, and her failure to allow Sandstone to conduct its on-site investigation.

"Do not reward Tony Morganelli for trying to rob Sandstone of money which she, frankly, does not deserve," he finished.

The dispute will be resolved when the jury determines whether Sandstone breached its contract with Morganelli by wrongfully denying her claim. Should the jury render a verdict in her favor, Morganelli will be awarded \$2 million.