

---

## **INSURER HIT WITH PUNITIVE DAMAGES AND LOSSES ON AN EXPENSIVE HOUSE FIRE FOLLOWING ONTARIO TRIAL**

Reported Case:	Sagl v. Cosborn, Griffiths & Brandham and Chubb
Citation:	(2007) 54 C.C.L.I. (4 <sup>th</sup> ) 236
At Issue:	Was house fire caused by arson? Did plaintiff materially misrepresent facts in obtaining policy? If these defences groundless, is plaintiff entitled to punitive damages?
The Court:	Ontario Superior Court of Justice
Judgment Rendered:	September 4, 2007
Factual Summary:	Plaintiff's high-value house and possessions destroyed in December 1997 fire, resulting in \$4.2 million claim to insurer, Chubb. Chubb denied the claim alleging arson and material misrepresentations when the policy was put in place. When policy issued, plaintiff did not advise Chubb of her ex-husband's interest in home, a first mortgage, or her financial qualification for the VIP insurance program. At time of fire plaintiff on a date (with a judge..!), house locked, security alarm set, plaintiff's son was out for the evening, dog outside, and maid given night off.
Disposition By Lower Court:	Defences groundless; plaintiff entitled to \$500,000 punitive damages. When the policy was issued Chubb did not ask for the information it says Plaintiff withheld. Court "incensed" that insurer would assert defence without advising insured of what it considers "material facts." Chubb investigators theorized house "staged" for arson, pre-judging arson and failing to conduct an impartial investigation. No evidence of accelerants used in the fire; initial witnesses on the scene not interviewed; supportive reports and circumstances ignored; loss far exceeded insured value; house decorated for Christmas... Chubb's arguments "illogical, insupportable, and reliant on a shoddy investigation." In civil suit, burden of proof on a party alleging criminal conduct is between balance of probabilities and beyond a reasonable doubt. On this higher standard Chubb failed to prove the fire was deliberately set. Insurer must act in utmost good faith toward insured. Chubb breached duty of good faith by, among other conduct, failing to scrutinize fire evidence impartially.
Appellate Decision:	This case is currently under appeal.