Article B

Livelihood at Stake

Tony Morganelli, resident of Longstreet, SC, and former owner of Big Tony's Barbeque Restaurant, has sued Sandstone Insurance Company for breach of contract. Mr. Morganelli was entitled to $2 million in the event of a total loss. When a fire consumed Big Tony's Barbeque Restaurant on August 14, 2007, Tony Morganelli filed his claim only to discover that Sandstone Insurance Company was denying it, asserting intentional loss.

On Saturday, March 10, 2012, the two parties met at the Matthew J. Perry, Jr. Federal Courthouse in Columbia, South Carolina, to settle the dispute. After the bailiff called the Seventeenth Judicial Court of Common Pleas to order, the plaintiff attorney gave a brief overview of the case's background. Following his father's death in 1992, Tony Morganelli inherited the family business. He renamed it "Big Tony's Barbeque Restaurant" after his father, secured a $400,000 loan from T.K. Bank, and relocated the restaurant next to the LML Textile Mill in 1993. Since he paid the loan off six years earlier than required, Mr. Morganelli acquired another loan to add a sports bar. The restaurant flourished until the textile mill closed down in 2006. Since then, Mr. Morganelli has found himself "trying to overcome the giants of the world." With businesses closing all around him, he strove to keep his father's legacy alive by advertising and even distributing his secret sauce to local stores. His hard work was paying off, but it turned to ashes the night of the fire.

Tony Morganelli, age 54, testified to the events of August 14, 2007. As he was finishing up for the day, a man dressed in black broke in and demanded money. A struggle ensued and Morganelli chased the alleged robber outside. When he looked back, he saw his “beloved restaurant on fire.” He was “shocked,” he claimed “and couldn’t do anything.” Big Tony’s Barbeque Restaurant had been the “embodiment of my father’s life,” he explained. During cross examination, the defense attorney pointed out that his shock had resulted in negligence by failing to call 9-1-1 or at least attempt to put the fire out himself. She also revealed that he failed to file a police report on the robber.

Witnesses Pat Murphy and Chase Clarkson, both of which are Tony’s good friends were called to testify on the plaintiff’s behalf. Fire investigator Pat Murphy with thirty years of fire investigating experience explained his findings of the fire at “Big Tony’s.” After receiving a page at 11:00 p.m., Murphy arrived on the site and started out by interviewing Tony Morganelli and Peyton Willis. Tony was “distraught” and “worried,” Murphy noted. “[Tony] did not give me a response,” Murphy continued, “[until] after I prompted him.” He finished interviewing Morganelli the next morning and began his physical investigation. Even though Tony told him the story, Murphy began his investigation in the kitchen, and the defense attorney questioned him as to why he had done so. He replied that he wanted to complete a thorough investigation. As a result of his physical examination of the site, Murphy concluded that the fire originated in two points: the sports bar and dining area. He believed that a candle, a match, or a lighter could have been the possible incendiary devices while the accelerant was evidently alcohol. In his final expert opinion, he deemed that the fire was accidental.

TK Bank's senior loan officer Chase Clarkson attested to Mr. Morganelli's financial situation. She became his financial advisor when he began defaulting on his loan payments. Before June of 2006, the restaurant's income was steady, but it decreased afterwards. However, "Tony was trying." His advertising campaigns in 2007 had instigated an upward trend in his business's net income during May, June, and July. May's net income was -$1,400. It was $2,178 in June and $8,678 for July. Ms. Clarkson also mentioned that Tony was anticipating a substantial clientele throughout the upcoming sports season. Ms. Clarkson had gone to Big Tony's around 9:30 p.m. to collect another loan payment. She noticed the candles on the tables, on the bar, and on the shelves behind the bar. She admitted that she slightly pressured Mr. Morganelli to make his payments. The defense attorney asked her whether she had informed him that the bank was not going to foreclose. At the time, she thought it was unnecessary, because she trusted that Mr. Morganelli would pay.

Big Tony's assistant manager, Ms. Peyton Willis, was a firsthand witness of the fire. Mr. Morganelli had sent his staff home unusually early on the slow business night of August 14, 2007. Ms. Willis expressed her surprise when he dismissed her also at 10:30 p.m. Seeing that Mr. Morganelli and Ms. Clarkson remained inside, she left the doors unlocked. On her way to O'Sullivan's, she saw some people in dark clothing whom she did not recognize. At approximately 11:00 p.m., she returned to Big Tony's for her forgotten keys and saw a "giant glow in the direction of the restaurant." Peyton Willis called 9-1-1. "I will never forget how Tony stared at the fire and didn't even ask me to call 9-1-1," she said.

The defense called Drew Bridges, Mr. Morganelli's Sandstone insurance agent. She read the exclusions of the insurance policy. Neglect and intentional loss were not covered losses. Ms. Bridges had heard about the recent string of robberies in town and admitted that she originally suggested that Sandstone should pay the $2 million. However, after looking into Investigator Ross's report, she agreed with Sandstone.

Sandstone Insurance Company preferred a second opinion from an unbiased party. They hired their own private fire investigator Alex Ross. At 38 years of age and only eight years of investigative experience, Ross concluded that fire investigator Pat Murphy's report contained three major flaws. First, he failed to investigate the witnesses enough. He claimed that a valuable amount of information could have been gleaned if only Murphy had pressed his interviewees further. Second, he did not take into account the amount of liquid accelerant. Investigator Ross estimates that approximately ten to twenty bottles of alcohol would be needed to produce the kind of fire described in the report. Lastly, Murphy did not look into motive. As far as Mr. Morganelli knew, he was in danger of "defaulting on the loan." In light of the flaws Investigator Ross found, the plaintiff attorney inquired whether he had performed any interviews, whether he had completed a physical investigation, or whether he had attempted to contact the witnesses. He argued that the witnesses would have forgotten key facts by that time and that the building had been "prematurely" demolished. The plaintiff attorney pointed out that Sandstone alone accounts for seventy-five percent of his firm's income, totaling $1.2 million. Furthermore, he was paid $500 an hour to perform his investigation.

Sandstone based their decision on the report of an investigator who never "set eyes on the place." They hired Alex Ross nearly three months after Mr. Morganelli filed

the claim. Furthermore, they did not contact their policyholder for a period of five months, which is inadequate protocol for any company. Yet, it is clear that $2 million would notably alleviate the plaintiff's financial crisis. As in every case, a set of scales is on the table. All the facts must be viewed carefully. If the defense tipped the scale in its favor or if the scales are equal, the verdict must be in favor of the defense. If not, the verdict must be in favor of the plaintiff.