B77 Seeing Both Sides of the Coin

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The goals of this research project are to show the difference in perspective between the prosecution/plaintiff and the defense in fire litigation.

A case study will be utilized to show the difference in perspective between the prosecution/plaintiff and the defense for fire litigation. Slides of the case study will be available to spark discussion. The facts, legal issues, investigations and laboratory tests of the case study will be given in this abstract. Members of the Academy can assume the position of Judge, jury, litigator, insurer, investigator or laboratory analyst from either side of the issue. Each participant should give a statement about the role they play in the matter, what they are required by law to do and what they did and why? Other members of the Academy or the litigators can question the participants about the motives for their actions to gain insight into their perspectives.

In the evening of a late summer day, a fire occurred in a commercial property located in a summer resort area. The property was an amusement facility for young teenagers. The facility had experienced break-ins and vandalism prior to the fire. Insurance claims had been made to replace damaged or missing amusement machines in the facility. The weather had been cold and rainy all summer, which seriously affected the income of the business. The fire was investigated by a detective from the local prosecutor's office. The detective determined that the fire started in the ceiling of the building where fluorescent light fixtures were located. He believed that a ballast of the light fixtures had overheated and caused ignition of combustible materials in the ceiling. This fire was a large financial loss in excess of several million dollars. Two insurance companies insured the property and its contents. They were on the hook to pay out several millions of dollars to the owners of the property due to the insurance policies. Consequently, the insurance companies sent a licensed professional electrical engineer to the fire scene to examine the light fixtures. If the light fixtures were defective or improperly installed, the insurance companies could subrogate against their manufacturer or installer to get their money back. Over the years many fires have been reported as caused by an overheated light fixture ballast and claimants have been successful in recovering money from ballast manufacturers and electrical contractors. A ballast is an electrical device in a fluorescent light fixture, which raises the voltage and ignites the gas in the light tube. It contains insulating materials, which some fire investigators believe will flow out when it overheats and ignite combustibles beneath it. The electrical engineer examined the light fixtures at the fire scene. He found that the fixtures and the wiring in the ceiling were not defective. The insulating material that flowed out of the ballast was due to the heat of the fire. The ballasts were thermally protected units and they contained a device to de-energize them if they started to overheat. The engineer informed the detective of his findings. The detective told the engineer that another detective had found that the serial numbers on amusement devices in the building did not "match" the insurance claims. The serial numbers were for much older equipment. Subsequently, the insurance companies sent a licensed private investigator to inspect the fire scene because engineers are not permitted to testify in many jurisdictions about arson. The private investigator found that the fire started on the floor beneath the burned-out ceiling. He took samples from the floor area for laboratory analysis. The laboratory tests indicated the presence of gasoline in the floor samples. Consequentially, the insurance companies denied to pay the owners fire claim. However, the owners were well respected members of the community and had devoted in excess of 25 years of their lives to public service. The owners retained a highly respected fire investigator associated with a prestigious university to investigate the fire on their behalf. He found that the fire originated in the ceiling of the building and it was caused by wiring, which overheated. No electrical short-circuits were found but they could have been displaced by firefighting activities. Conductors/wires coming out of the building's main panelboard were heat damaged, its components showed evidence of electrical arcing and its circuit breakers had not tripped opened due to the electrical overload. Samples taken from the floor were found to be negative for gasoline by a testing laboratory. In addition, any gasoline found on the floor area could have been inadvertently dropped there since the facility contained gasoline powered miniature racing vehicles.

Perspective, Legal Issues, Fires

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