# Presumptive Evidence of an Insured's Intentional Fault: The Superior Court Dismisses Proceedings Instituted Against an Insurer

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**Introduction**

On July 2, 2024, the Superior Court rendered a decision in *Lallier* c. *Société d'assurance Beneva inc.*,[1] ruling on an insured's claim against his insurer for an insurance benefit further to a loss, as the insurer had denied coverage, alleging the insured's intentional fault. Despite the absence of hard evidence of the insured's intentional fault, the Court ruled in favour of the insurer based on evidence established by presumption.

**The facts**

During the night of August 2 to 3, 2020, a fire destroyed the home of Plaintiff, Mr. Réjean Lallier (hereinafter "**the Insured**"). His version is that he accidentally left a candle burning in the bathroom before running errands with his son.

When he returned, the Insured saw that the house was on fire. Having no telephone, he rushed to a convenience store to call the fire department, rather than asking a nearby resident for help.

After the loss, the Insured contacted his insurer Société d'assurance Beneva inc., the defendant in the case ("**the Insurer**"), to obtain compensation for the damage to his property.

The claims adjuster that the Insurer had assigned to the case and who had been tasked with investigating the loss and compensating the Insured raised several anomalies in the Insured's deposition. These included the Insured's precarious financial situation, the fact that the residence was poorly maintained and the fact that, despite the urgency of the situation, the Insured had decided to take his car to call for help rather than go to a neighbour's house.

In these circumstances, the case is referred to the Insurer's special investigation unit.

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The Insurer's investigation ultimately led to the conclusion that the Insured had intentionally caused the fire. This meant that contractual and legal exclusions applied, allowing the Insurer to deny coverage and justify its refusal to pay an insurance benefit.

The Insured, who represented himself at the trial, instituted legal proceedings for the sum of $680,000, seeking reparation for damage to the immovable, his movable property and for living expenses. He also claimed $20,000 in compensation for the alleged inconvenience he suffered as a result of the Insurer's "abusive behaviour."

**Analysis**

The Honourable Justice Sébastien Vaillancourt, J.S.C., pointed out that, under article 2464 of the *Civil Code of Québec*[2] and the provisions of the insurance policy, the Insurer is not obliged to compensate for damages intentionally caused by the Insured. However, the Insurer has the burden of establishing the Insured's intentional fault.

The Court reiterated that intentional fault is defined as behaviour that is deliberately and voluntarily intended to cause harm.[3] The offender's intention must not only be evident in the actions taken, but also in the ensuing consequences.[4]

This can be demonstrated through serious, precise and concordant presumptions, in accordance with the teachings of the Court of Appeal in *Barrette* on the subject.[5]

To meet its burden of proof, the Insurer presented to the Court the inconsistencies and improbabilities in the Insured's statements. For example, in some statements, he claimed to be in a good financial position, while in others, he stated the opposite. In addition, the time at which he left his house after lighting the candle, what he did with his son after he left and how long he was gone changed from one statement to the next. The Insured had trouble explaining in a coherent manner why he was gone for so long late in the evening while his house was going up in flames.

The Insured indicated that he went to the convenience store to contact the fire department after seeing the fire, stating that he did not want to go to his neighbour's house because they had had a disagreement in the past. The Court concluded that this version was implausible given the gravity of the situation. Several other contradictions were noted in the Insured's testimony at trial.

The Insured tried to justify himself by claiming that he had trouble speaking in public and that his medication was causing him to lose his memory.[6] However, there was no evidence to support these claims, and they were not upheld by the Court.[7]

Ultimately, the judge did not accept the Insured's version. The sheer number of contradictions in his statements went beyond what was acceptable to the Court to consider them reliable. Given that certain contradictions emerged as early as the first statement after the fire, the time lapse between the incident and the trial could not be used as a justification.[8] The statements were considered untrue, as they were mutually inconsistent.[9] What is more, the contradictions and inconsistencies in the statements pointed to fraudulent intent on the Insured's part.

Lastly, the claim for damages in compensation for the Insurer's abusive behaviour was also dismissed, given the absence of evidence in this regard.[10]

**Conclusion**

Demonstrating fraudulent intent to deny coverage is no simple feat for insurers.

In this case, the Insurer succeeded in meeting its burden of proof by relying on presumptions rather

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than hard evidence. The facts spoke for themselves. And faced with the Insured's numerous inconsistent and contradictory statements, the Court ruled in favour of the Insurer. The Insured's fraudulent intent was successfully substantiated and his claim against the Insurer was dismissed.[11]

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1. *Lallier* c*. Société d'assurance Beneva inc.*, [2024] n° 500-17-116356-216, QCCS. [**Lallier**] (Time limit for appeal: 30 days after the date of the notice of judgment).
2. *Civil Code of Québec,* a. 2464; *Lallier*, para. 34.
3. *Allstate du Canada, compagnie d'assurances* c. *D*., SOQUIJ AZ-50101469, J.E. 2001–1891, (C.A.), para. 18, as quoted in *Lallier*, para. 36. [**Allstate**]
4. Allstate, para. 18, as quoted in *Lallier*, para. 36.
5. *Lallier*, paras. 37–38; see *Barrette* c. *Union canadienne (L'), compagnie d'assurances*,2013 QCCA 1687, paras. 12–13.
6. *Lallier*, para. 43.
7. *Lallier*, paras. 44–46.
8. *Lallier*, para. 47.
9. Maud Rivard, *Dispositions générales applicables aux assurances de dommages*, JCQ-Droit civil Contrats nommés II, Fascicle 20, para. 92, updated to June 20, 2023, as quoted in *Lallier* para. 49.
10. *Lallier*, paras. 59–62.
11. *Lallier*, paras. 56–58.

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