



March 24, 2011

Re: U.S. DISTRICT COURT FOR THE EASTERN DISTRICT IN MICHIGAN DECISION ON WHETHER ARSON CONSTITUTES VANDALISM

The U.S. District Court for the Eastern District in Michigan recently decided the case of [Bates v. Hartford Insurance Company of the Midwest](#). This decision addressed the issue of whether arson constitutes vandalism. *Bates* followed the state court decision of *Johnson v. State Farm Fire and Casualty Company*, an unreported 2008 decision, and agreed arson was a separate peril from vandalism and malicious mischief. As a result, a policy's vandalism exclusion for property left vacant for more than thirty (30) consecutive days did not apply to an arson loss.

This is only a trial court level decision, and the deadline to appeal the ruling has not yet begun to run. We will track this case and will let you know if there is any appellate activity. Since it is a trial level decision, it has limited value as a precedent. It does however indicate the continuing of a trend among courts in Michigan in viewing arson losses as being separate and distinct from losses caused by vandalism or malicious mischief.

If you have any questions regarding this decision or its impact, please do not hesitate to contact our firm

Sincerely yours,

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