Liberty Mut. Ins. Co. v. Land

Superior Court of New Jersey, Appellate Division

December 9, 2009, Argued; January 14, 2010, Decided

DOCKET NO. A-6126-06T2

Reporter
2010 N.J. Super. Unpub. LEXIS 89 *; 2010 WL 114428

LIBERTY MUTUAL INSURANCE COMPANY, Plaintiff-Respondent, v. ROSE LAND AND FRANK LAND, Defendants-Appellants, and STEVEN BUDGE, Defendant.

Notice: NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE APPELLATE DIVISION.

PLEASE CONSULT NEW JERSEY *RULE 1:36-3* FOR CITATION OF UNPUBLISHED OPINIONS.

Prior History: **[*1]** On appeal from the Superior Court of New Jersey, Law Division, Morris County, Docket No. L-2169-01.

Core Terms

damages, violations, compensatory damages, declaratory judgment, insurance company, trial court, treble, insurance fraud, costs, trial judge, determinations, coverage, roof, credible evidence, property loss, knowingly, parties, cabin

Counsel: James F. Villere, Jr., argued the cause for appellants.

Russell Macnow argued the cause for respondent (Sukel, Macnow & Associates, attorneys; Mr. Macnow, on the brief).

Judges: Before Judges Stern, Lyons, and J. N. Harris.

Opinion

PER CURIAM

This insurance coverage and insurance fraud dispute is well-documented in the New Jersey Supreme Court's opinion of *Liberty Mut. Ins. Co. v. Land, 186 N.J. 163, 892 A.2d 1240 (2006)*. This appeal reaches us after a second jury found that defendants Rose Land and Frank Land (collectively, the Lands) had engaged in statutory insurance fraud. The jury's verdict not only disenfranchised the Lands' entitlement to collect insurance proceeds for their putative property losses, but additionally exposed them to a judgment in favor of plaintiff Liberty Mutual Insurance Company (Liberty Mutual). The trial court ultimately determined the Lands' total monetary obligation to be in the amount of $ 175,302.88, largely due to a statutory trebling effect. After a thorough canvass of the facts and law, we are satisfied that the trial court's processes that resulted in the dismissal of the Lands' claims **[*2]** and the imposition of a judgment against them were unexceptionable.

We affirm.

I.

On July 20, 2001, Liberty Mutual filed what it styled as a "Declaratory Judgment Complaint" against defendants Land and Steven Budge (Budge). [1], [2] That pleading

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[1] Budge is the Lands' nephew and was a public adjuster. He has since been stripped of his license to be a public adjuster and--as a consequence of the events of this case--was indicted by a grand jury in February 2003

demanded a judgment expressly pursuant to the New Jersey Insurance Fraud Prevention Act (IFPA), *N.J.S.A. 17:33A-1 to -30*, adjudicating that the defendants:

> 1. Have breached the terms and conditions of the policy of insurance issued by Liberty Mutual thereby causing the entire policy to be void;
>
> 2. Committed violations of the New Jersey Insurance Fraud Prevention Act, *N.J.S.A. 17:33A-1 et. seq.* thus entitling the plaintiff to damages pursuant to *N.J.S.A. 17:33A-7*;
>
> 3. A determination and adjudication that the claim as presented by the insureds constituted a violation of the policy, intentional concealment and/or misrepresentation by the insureds, fraud, actual or constructive and was otherwise made in violation of the policy;
>
> 4. A determination that the Liberty Mutual Fire Insurance Company does not owe coverage to the defendants for any losses arising out of the claims alleged to have occurred on or about December 10 [sic], 2000; and for attorneys' fees, **[*3]** cost and such other relief as the Court may deem just and proper.

The litigation sprang from the fallout of a seemingly innocuous property loss. After a neighbor's tree toppled onto the roof of the Lands' cabin in Highland Lakes in December 2000, defendants filed a property damage **[*4]** claim with plaintiff, their homeowners' insurance carrier. The Lands employed Budge to assist in the preparation and filing of the insurance claim by assessing the damage and securing the structure. In exchange for this assistance, Budge was to be paid ten percent of the insurance proceeds.

During its investigation of the Lands' claim, plaintiff uncovered a videotape that depicted Budge and several others working on the cabin's roof shortly after the tree fell onto the cabin. The videotape showed three men taking a heavy portion of the fallen tree--estimated to be 600 pounds--and slamming it against the roof, in an effort to create further damage and shatter a skylight. Although adamantly denied by defendants, they had apparently gone onto the roof after the tree fell and attempted to increase the physical damage to the Lands' cabin. Among other things, defendants argue that it was logically impossible to increase the physical damage to the cabin because it already was a total loss. Similarly stated, defendants claim that they could not do further damage or injury to a structure that was already damaged beyond repair, and which would need to be totally replaced.

In furtherance of their **[*5]** claim of property damage, the Lands submitted a "Sworn Statement In Proof of Loss," which was on Budge's letterhead. Their losses were claimed to total $ 69,338. As an additional part of the claims process, defendants appeared for an oral examination several months later, at which they testified under oath about the circumstances of the tree-falling incident without disclosing the damage-enhancement activities.

After its loss investigation was completed, plaintiff determined that the Lands' claims of loss had been inflated.

(Sussex County Indictment No. 03-02-00033) and charged with theft by deception, *N.J.S.A. 2C:20-4*. Budge was admitted into the Pre-Trial Intervention (PTI) program pursuant to *Rule* 3:28. Budge has since fulfilled the conditions of PTI and was released from supervision on September 4, 2007. Thereafter, the criminal indictment against him was dismissed.

[2] We separately disposed of Budge's pro se appeal in *Liberty Mut. Fire Ins. Co. v. Land, No. A-5703-06, 2009 N.J. Super. Unpub. LEXIS 955 (App. Div. March 27, 2009)*, *certif. denied*, ***___N.J. ___, 200 N.J. 505, 983 A.2d 1112 (2009)*** and his related pro se appeal of the revocation of his public adjuster license in *Commissioner N.J. Dep't of Banking & Ins. v. Budge, No. A-0938-07, 2009 N.J. Super. Unpub. LEXIS 2023 (App. Div. July 29, 2009)*.

Liberty Mutual accordingly denied coverage and withheld the payment of insurance benefits. It then commenced this declaratory judgment action for a determination of rights relating to the scope of its insurance policy's coverage and for treble damages pursuant to the IFPA.

The matter was initially tried to a jury in 2002. That trial resulted in a jury verdict in plaintiff's favor against the Lands and Budge, finding that each defendant had violated the IFPA. The trial court then issued a consequential judgment awarding compensatory damages. On the ensuing appeal, this court set aside the initial judgment on three distinct grounds: 1) the appropriate standard of proof **[*6]** was by a heightened "clear and convincing" evidence, not the preponderance standard that had been charged to the jury; 2) plaintiff's counsel made improper comments in his summation that had the capacity to unduly influence the jurors; and (3) Budge, who represented himself, should have been permitted to testify at trial in narrative form. We remanded the case for a new trial.

In its own review, the Supreme Court determined, as a matter of law, that the proper standard of proof in a civil action brought by an insurer under the IFPA is the preponderance standard. *Liberty Mutual, supra, 186 N.J. at 170-79*. As a result, the Court reversed our opinion on that distinct legal issue. *Id. at 180-81*. The Court left the balance of our dispositions in place, and remanded the case to the Law Division for the new trial that we had previously directed. *Ibid.*

The matter was tried anew before a second jury in November and December 2006. Budge again appeared pro se, but this time was permitted to testify in narrative form. This jury also returned a verdict in plaintiff's favor, again finding that all defendants had violated the IFPA. The jury was neither presented with direct evidence of precise losses **[*7]** or damages suffered by plaintiff, nor did it render a verdict as to the exact amount of plaintiff's compensatory damages. All that it was asked to decide, as the Jury Verdict Sheet indicated, was the following:

> 1. Has the Plaintiff, Liberty Mutual Insurance Company, proven [] that defendant(s) Rose and/or Frank Land knowingly misrepresented, concealed or failed to disclose any material fact concerning the property loss of December 12, 2000 to the plaintiff?

The jury responded, "Yes," by a six to one tally.

As a result, the trial court entered an order for final judgment on April 19, 2007, in which it determined the amount of compensatory damages suffered by plaintiff, applied the trebling pursuant to the IFPA, and dismissed the Lands' counterclaim that had sought payment for their property losses in accordance with Liberty Mutual's policy. The order first awarded plaintiff $ 5,157.41 in investigative costs, plus $ 52,576.78 in counsel fees. The court then trebled those amounts, yielding a total of $ 173,202.57. Thereafter, the court further specified that defendants were responsible for reimbursing plaintiff for an additional $ 2,100.31 in expenses. The total monetary judgment, on which **[*8]** defendants are jointly and severally liable, amounts to $ 175,302.88. This appeal followed.

Defendants raise the following numerous points for our consideration:

> *POINT 1*
> THE TRIAL COURT ERRED IN DENYING DEFENDANTS' MOTIONS FOR JUDGMENT BECAUSE FRAUDULENT "ADDITIONAL DAMAGE" CANNOT BE CAUSED TO A ROOF WHICH WAS BEYOND REPAIR AND HAD TO BE REMOVED, DEMOLISHED AND REPLACED WITH A NEW ROOF.
>
> *POINT 2*
> IT WAS ERROR FOR THE TRIAL JUDGE TO DENY DEFENDANTS' MOTION TO DISMISS

LIBERTY MUTUAL INSURANCE COMPANY'S COMPLAINT FOR A DECLARATION VOIDING THE POLICY AND TO AWARD DAMAGES UNDER THE DECLARATORY JUDGMENTS ACT IN THIS CASE.

(A)

IT WAS ERROR ON THE PART OF THE TRIAL COURT TO NOT DISMISS FRANK LAND AND STEVEN BUDGE AS DEFENDANTS.

(i)

JUDGE DUMONT ERRED IN DENYING THE MOTION BY CONFORMING THE PLEADINGS TO EVIDENCE PRESENTED AT THE FIRST, REVERSED, TRIAL.

(B)

A DECLARATORY JUDGMENT MAY BE EITHER AFFIRMATIVE OR NEGATIVE IN FORM AND EFFECT. JUDGE DUMONT ERRED IN EXPANDING THE JUDGMENT BEYOND WHAT IS ALLOWED BY THE ACT.

(C)

JUDGE DUMONT ERRED IN GRANTING A DECLARATION VOIDING THE POLICY TO LIBERTY MUTUAL BECAUSE THERE IS ORDINARILY NO REASON TO INVOKE THE PROVISIONS OF THE DECLARATORY JUDGMENTS ACT WHERE ANOTHER **[*9]** ADEQUATE REMEDY IS AVAILABLE.

(D)

ROSE LAND WAS PREJUDICED BY THE INCLUSION OF FRANK LAND AND STEVEN BUDGE AS CO-DEFENDANTS.

(i)

THE FAILURE TO DISMISS FRANK LAND AND STEVEN BUDGE AS DEFENDANTS RESULTED IN UNJUST JUDGMENT.

(E)

THE TRIAL COURT ERRED BY AWARDING DAMAGES TO LIBERTY MUTUAL INSURANCE COMPANY WHEN IT IS NOT ENTITLED TO DAMAGES UNDER THE INSURANCE FRAUD PREVENTION ACT.

(1)

LIBERTY MUTUAL WAS NOT DAMAGED AND DID NOT BRING AN ACTION UNDER [THE] INSURANCE FRAUD PREVENTION ACT FOR DAMAGES

(a)

THE CLOSEST STATUTORY ANALOGUE TO IFPA IN NEW JERSEY IS THE CONSUMER FRAUD ACT.

(b)

THE LANDS WERE DENIED THE RIGHT TO A JURY TRIAL ON DAMAGES.

(c)

THE JURY WAS NOT INFORMED OF THE ULTIMATE OUTCOME OF ITS VERDICT.

(d)

BENEFITS FROM AN INSURANCE POLICY ARE NOT DAMAGES TO BE PROVED TO THE JURY AND THE TRIAL COURT ERRED IN SO CHARGING.

(2)

LIBERTY MUTUAL INSURANCE COMPANY IS NOT ENTITLED TO THE PUNITIVE DAMAGE PROVISIONS OF THE INSURANCE FRAUD PREVENTION ACT.

(a)

INVESTIGATIVE COSTS AFFIDAVIT.

(b)

COSTS TO PRODUCE RIZZO FOR TRIAL SHOULD NOT HAVE BEEN ALLOWED.

(c)

AFFIDAVITS OF COSTS FOR LEGAL EXPENSES.

(d)

CLAIM FOR TREBLE DAMAGES.

After a full evaluation of these many points, as fortified at oral argument before us, **[*10]** we conclude that the Lands' arguments lack merit. Although we affirm substantially for the reasons expressed in Judge W. Hunt Dumont's letter opinion of April 20, 2007, we add several observations. A thorough analytical review of defendants' substantive and procedural arguments reveals that none of them has sufficient merit to warrant extended discussion. *R. 2:11-3(e)(1)(E)*. Even so, we briefly shall address parts of Point II relating to declaratory judgment actions and to the award of compensatory damages pursuant to the IFPA.

II.

A.

Although the core factual dispute between the parties was ultimately resolved by a jury, the Lands take issue mainly with the several additional determinations

made by the trial judge. Particularly, aside from their numerous claims of erroneous evidentiary rulings and persistent insistence that the facts can only be understood one way--their way--the Land's grievance relates to how they ultimately were deemed responsible for $ 175,302.88 in damages in what they believe should have been a routine insurance coverage dispute.

On appeal, we are constrained to defer to the factual determinations of the trial court provided they are supported by sufficient, credible **[*11]** evidence in the record. *Rova Farms Resort v. Investors Ins. Co. of Am., 65 N.J. 474, 484, 323 A.2d 495 (1974)*. However, we conduct a de novo review on issues of law and of the legal repercussions that spring from the established facts. *Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378, 658 A.2d 1230 (1995)*.

Defendants argue that Liberty Mutual somehow gamed the system against them by "lumping together breach of contract and insurance fraud causes of action." Although plaintiff's complaint is conflated into a concise single count, its prayer for relief leaves no doubt about its multiple objects: to avoid payment for the Lands' losses and to punish the Lands for submitting an inflated claim. We cannot subscribe to the Lands' overly restrictive theories of pleading practice, especially where there were no issues hidden in Liberty Mutual's transparent complaint.

We read the Uniform Declaratory Judgments Act (the Act), *N.J.S.A. 2A:16-50 to -62*, expansively, and with a liberal construction, as the Legislature has commanded us to do:

> This article is declared to be remedial. Its purpose is to settle and afford relief from uncertainty and insecurity with respect to rights, status and other legal relations. **[*12]** It shall be liberally construed and administered, and shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws, rules and regulations on the subject of declaratory judgments. It may be cited as the uniform declaratory judgments law.
>
> [*N.J.S.A. 2A:16-51*.]

Because of the close connection between the facts that Liberty Mutual alleged as grounds for 1) a rescission of insurance coverage and 2) a determination of insurance fraud, it was entirely appropriate to join all of the claims into a single complaint. [3] Even if it would have been better practice to separate plaintiff's claims for relief into discrete numbered counts listed in the complaint, the fundamental attributes of Liberty Mutual's first pleading fairly apprised the Lands of the disputed issues they would need to defend. See *R. 4:5-2*. The Lands do not seriously argue that they were not on notice of Liberty Mutual's theories of the case. Rather, they mount an ultra hyper-technical pleading argument, relating to declaratory judgment actions, an argument that enjoys no provenance in the law.

The Act empowers courts to declare rights, status, and other legal relations in order "to afford litigants relief from uncertainty and insecurity." *Chamber of Commerce, U.S.A. v. State of New Jersey, 89 N.J. 131, 140, 445 A.2d 353 (1982)*. In order to maintain a declaratory judgment action, a plaintiff must be able to demonstrate a justiciable controversy between adverse parties, and a sufficient interest in the outcome of the dispute in order to confer standing. *County of*

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[3] We should not **[*13]** be understood as concluding that in every case where insurance coverage is successfully challenged, a finding of insurance fraud is inevitable.

Bergen v. Port of N.Y. Auth., 32 N.J. 303, 307, 160 A.2d 811 (1960); *In re Association of Trial Lawyers, 228 N.J. Super. 180, 183-84, 549 A.2d 446 (App. Div.)*, *certif. denied*, *113 N.J. 660, 552 A.2d 180 (1988)*. Stated differently, the Act "'cannot be used to decide or declare rights or status of parties upon a state of facts which are future, contingent and uncertain.'" *Chamber of Commerce, supra, 89 N.J. at 140* (quoting *Lucky Calendar Co. v. Cohen, 20 N.J. 451, 454, 120 A.2d 107 (1956)*).

Even if plaintiff's one-count complaint is characterized as inelegant or even meager, it can hardly be considered cryptic or fundamentally unfair. It clearly **[*14]** posits a palpably justiciable controversy between Liberty Mutual and defendants. Notwithstanding its denomination as a declaratory judgment complaint, the pleading was fully capable of triggering the machinery of the judiciary to resolve an obvious dispute between the parties. We find nothing in the record that would remotely suggest a miscarriage of justice caused by the style or manner of plaintiff's pleading choices.

B.

Defendants contend that they were found responsible for damages that were never presented to--much less determined by--the jury. They assert that in order to be held responsible for the insurance company's damage award for fraud pursuant to the IFPA, the jury must have been presented with evidence of those damages. Here, because the jury was only asked the one liability question, "[h]as the Plaintiff, Liberty Mutual Insurance Company, proven [] that defendant(s) Rose and/or Frank Land knowingly misrepresented, concealed or failed to disclose any material fact concerning the property loss of December 12, 2000 to the plaintiff," there was an inevitable absence of jury findings concerning specific damages, in contravention of the IFPA. We disagree.

We start with the proposition **[*15]** that Liberty Mutual's recovery in this case was solely enabled by a statutory--not a common law--remedy. [4] The IFPA "is a comprehensive statute designed to help remedy high insurance premiums which the Legislature deemed to be a significant problem." *State v. Sailor, 355 N.J. Super. 315, 319, 810 A.2d 564 (App. Div. 2001)*. In order to meet that goal, the IFPA forbids a broad range of fraudulent conduct. For example, a person violates the IFPA if he or she:

> [p]resents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy . . . knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim.
>
> [*N.J.S.A. 17:33A-4(a)(1)*.]

Other violations include, but are not limited to, concealing or knowingly failing to disclose information concerning a person's initial or continued right or entitlement to a

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[4] The provision preserving the right of a trial by jury has appeared in each of New Jersey's Constitutions. Pursuant to *Article I, paragraph 9 of the New Jersey Constitution (1947)*, a litigant has the "right of trial by jury [that] shall remain inviolate. . . ." In construing this provision, the New Jersey Supreme Court has been consistent in denying a right to jury trial unless that right existed prior to the adoption of the State Constitution. *In re LiVolsi, 85 N.J. 576, 428 A.2d 1268 (1981)*. We note that where actions created by statute have distinctive features with respect to substantive and procedural standards that would render them virtually unknown to the common law, there is no right to jury trial. *See, e.g., Manetti v. Prudential Property & Casualty Ins. Co., 196 N.J. Super. 317, 482 A.2d 520 (App. Div. 1984)*; *Van Dissel v. Jersey Cent. Power & Light Co., 181 N.J. Super. 516, 438 A.2d 563 (App. Div. 1981)*.

benefit, N.J.S.A. 17:33A-4(a)(3); presenting any knowingly false or misleading statement in an insurance application, N.J.S.A. 17:33A-4(a)(4)(b); or knowingly assisting, conspiring with, or urging any person or practitioner to violate any of **[*16]** the Act's provisions, N.J.S.A. 17:33A-4(a)(5)(b).

Insurance companies that have been damaged as a result of these statutory violations are expressly authorized to bring civil actions to recover compensatory damages, including reasonable investigation costs and attorneys' fees. N.J.S.A. 17:33A-7(a). A successful insurance **[*17]** company shall also recover treble damages if the court determines that a defendant engaged in a pattern of the enumerated statutory violations. N.J.S.A. 17:33A-7(b).

An insurance company's proof of resultant damages from insurance fraud pursuant to the IFPA is not an element of the cause of action that is required to be submitted to a jury. In this very case, in reliance upon Merin v. Maglaki, 126 N.J. 430, 599 A.2d 1256 (1992) (where the plaintiff was the Commissioner of Insurance), the Supreme Court noted:

> the statutory language of IFPA does not require proof of reliance on a false statement or resultant damages. *See* Merin, supra, 126 N.J. at 445 ("Nor do we find decisive the fact that [the defendant] was not successful in securing insurance proceeds. The penalties permitted by the Act are not designed to remedy direct monetary damage to the insurer."); Sailor, supra, 355 N.J. Super. at 324 (stating that under IFPA "the State is not seeking damages, as in a common law fraud action, but rather is seeking a statutory penalty designed to reduce the incidence of insurance fraud").
>
> [Liberty Mut. Ins. Co. v. Land, supra, 186 N.J. at 175.]

Thus, the presentation of only the liability issue to the jury, without **[*18]** a separate damages component, did no violence to the IFPA and perforce, was not unduly prejudicial to defendants. The statutory framework provides that it is left to the court to admeasure the compensatory damages--a blend of "reasonable investigation expenses, costs of suit and attorneys fees," N.J.S.A. 17:33A-7(a)--and then determine whether "the defendant has engaged in a pattern of violating this act," for purposes of imposing treble damages. N.J.S.A. 17:33A-7(b). The trial judge adhered to that process in this case.

C.

In our review of the fact-based damages determinations of the trial judge, it is imperative to give appropriate deference to the trial judge's findings of fact, especially on issues of credibility. McElwee v. Boro. of Fieldsboro, 400 N.J. Super. 388, 397, 947 A.2d 681 (App. Div. 2008) (noting that an appellate court must give "deference to the findings of the trial judge . . . where . . . the findings are substantially influenced by [the judge's] opportunity to hear and see the witnesses and to have the 'feel' of the case, which a reviewing court cannot enjoy.") (internal quotations omitted). Nevertheless, a trial judge's determinations cannot be supported by mere subjective conclusions; **[*19]** instead, they must be supported "by adequate, substantial and credible evidence." Rova Farms, supra, 65 N.J. at 484.

Our function on appeal is limited, as "'we do not disturb the factual findings and legal conclusions of the trial judge unless we are convinced that they are so . . . inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice.'" *Ibid.* (quoting Fagliarone v. Twp. of No. Bergen, 78 N.J. Super. 154, 155, 188 A.2d 43 (App. Div. 1963)).

We do not, however, owe deference to "'[a] trial court's interpretation of the law and the legal consequences that flow from established facts." *State v. Barrow, 408 N.J. Super. 509, 516-17, 975 A.2d 539 (App. Div. 2009)* (quoting *Manalapan Realty v. Twp. Comm. of Manalapan, 140 N.J. 366, 378, 658 A.2d 1230 (1995)*).

In this case, we are convinced that the trial judge's findings were supported by "competent, relevant or reasonably credible evidence." *Rova Farms, supra, 65 N.J. at 484*. We are further convinced that the judge considered the relevant legal principles in light of the facts that were available to him.

Judge Dumont reviewed the wealth of evidence presented at trial, in addition to the affidavits and other submissions of the **[*20]** parties in determining the amount of Liberty Mutual's statutory compensatory damages. In a written opinion, he concluded that Liberty Mutual's statements of fees and costs should be truncated to include only those "for the work done prior to the first trial and in connection with the second trial," and not including fees and costs attributable to the appeals. His ultimate determination of the compensatory damages as amounting to $ 57,734.19 is readily supportable by the credible evidence that was presented to him.

The judge further determined that the Lands engaged in a distinct pattern of violating the act, *N.J.S.A. 17:33A-7(b)*, by committing at least five or more related violations of the IFPA. *N.J.S.A. 17:33A-3*. The trial court's written opinion carefully explained the specific instances of the Lands' multiple statutory violations, including submission of proofs of loss that contained false or misleading information and their false testimony given during oral examination. Accordingly, the trebling effect that increased the compensatory damages to $ 173,202.57 was also supported by the evidence. Finally, we find no abuse of discretion in the judge's adding $ 2,100.31, representing **[*21]** expenses of a plaintiff's witness, resulting in a final award pursuant to the IFPA of $ 175,302.88.

In sum, the Lands' myriad arguments are unpersuasive and do not warrant further discussion. Judge Dumont's management of the trial, his factual findings, and the determinations of law generated therefrom were faithful to our practices and jurisprudence. We have no occasion to adjust the result so many years after the timber struck the dwelling, setting into motion the unfortunate circumstances that two juries have now steadfastly determined amounted to insurance fraud.

Affirmed.

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