

**PJI 4:80A-Contract-Fire Insurance-Defenses-Fraudulent Claim and False Swearing**

**As you have heard, the plaintiff AB has sued the defendant CD to recover for (his, her) loss under a fire insurance policy. CD, the company that issued the policy, claims that AB cannot recover under the policy because (he, she) intentionally (made false statements about, concealed) [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss] and the true facts, if known to the insurer, were the kind of facts that were not trivial and that a reasonable insurance company would have considered important for investigating the claim or deciding whether to pay it.**

**In order to be relieved of its obligation to pay AB's claim under the insurance policy, CD must prove, by clear and convincing evidence, that (1) AB (made false statement[s] about, concealed) [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss], (2) AB (made the false statement, concealed the fact that [set forth matter that plaintiff concealed]) intentionally, (3) a reasonable insurer in CD's position would have considered [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss] important for its investigation of AB's claim or its decision whether to pay it. It is not necessary for CD to prove, in addition, that its was actually harmed or that its insured, AB, did not actually suffer a loss covered by the insurance policy.**

**If you conclude that CD has proven, by clear and convincing evidence that that (1) AB (made false statement[s] about, concealed) [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss], (2) AB (made the false statement, concealed the fact that [set forth matter that plaintiff concealed]) intentionally, (3) a reasonable insurer in CD's position would have considered [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss] important for its investigation of AB's claim or its decision whether to pay it, you will find for CD [state where appropriate: on this issue]. On the other hand, if you conclude that AB did not (make false statement[s] about, conceal) [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss], or that, if (he, she) did so, (he, she) did not act intentionally or that the true facts about [set forth matter that plaintiff allegedly misrepresented or concealed, such as the cause or value of the loss] would not have been important to a reasonable insurer for its investigation of AB's claim or its decision whether to pay the claim, then you will find for AAB [state where appropriate: on this issue].**