

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

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FRANKENMUTH MUTUAL INSURANCE  
COMPANY,

PLAINTIFF/COUNTER-DEFENDANT,

vs.

C.A. NO. 2022-196425-CB

HON. VICTORIA VALENTINE

ARCHITECTURAL DOOR &  
MILLWORK, INC.,

DEFENDANT/COUNTER-PLAINTIFF.

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**OPINION AND ORDER REGARDING DEFENDANT'S  
MOTION FOR SUMMARY DISPOSITION**

At a session of said Court held on the  
8<sup>th</sup> day of December 2023 in the County of  
Oakland, State of Michigan  
PRESENT: HON. VICTORIA A. VALENTINE

This matter is before the Court on Defendant, Architectural Door& Millwork Inc's Motion for Summary Disposition under MCR 2.116(C)(10). The Court, having reviewed the briefs, having considered the merits, having heard oral argument, and being fully advised in the premises, GRANTS Defendant's motion as there is no question of material fact.

The matter relates to a fire in Defendant’s warehouse that spread to the area where an inventory of pre-production doors was stored. The dispute relates to Frankenmuth Mutual Insurance Company’s payment to Defendant of the insurance policy’s \$1.6 million business personal property (“BPP”) coverage limit.

Frankenmuth filed this lawsuit seeking a Declaratory Judgment that the insurance policy at issue is void. Defendant, in in turn, filed a Counterclaim seeking, *inter alia*, a judgment of liability under the policy and an appraisal pursuant to MCL 500.2388(1)(m).<sup>1</sup> Defendant now files this motion under MCR 2.116(C)(10),<sup>2</sup> claiming there is no question of material fact to decide, and requesting the Court to send this insurance claim to appraisal pursuant to MCL 500.2833(q)(m) to resolve the issue of damages.

It is undisputed that the parties have separately estimated that Defendant’s loss from the fire exceeded the policy’s \$1.6 million coverage limits. Frankenmuth’s hired specialist, Kelly Bridgewater of Sedgewick Inc, assessed the scope of the fire damage to the inventory pre-

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<sup>1</sup> Plaintiff filed its own Motion for Summary Disposition relating to the Counter-Claim, which the Court denied on November 3, 2023.

<sup>2</sup> Summary disposition may be granted where “[e]xcept as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.” MCR 2.116(C)(10). This motion tests the factual sufficiency of the complaint and “must specifically identify the issues as to which the moving believes there is no genuine issue as to any material fact.” MCR 2.116(G)(4). The moving party bears the initial burden of supporting its position. *Smith v Globe Life Ins Co*, 460 Mich 446, 455 (1999). “Affidavits, depositions, admissions, or other documentary evidence in support of the grounds asserted in the motion are required . . . when judgment is sought based on [MCR 2.116(C)(10)].” MCR 2.116(G)(3)(b). “The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists. Where the burden of proof at trial on a dispositive issue rests on a nonmoving party, the nonmoving party may not rely on mere allegations or denials in pleadings, but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists. If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.” *Smith*, 460 Mich at 455 (citations omitted; emphasis added).

production doors to be \$1,706,626.07.<sup>3</sup> Defendant's specialist, Robert Levin of Globe Adjusters International assessed the damage to be \$3.1 million.<sup>4</sup> Accordingly, the Court agrees with Defendant that it is undisputed that Frankenmuth's payment of the \$1.6 million in BPP coverage limits did not fully indemnify Defendant for its entire loss. Therefore, Defendant's attempt to maintain customer relationships and mitigate lost sales immediately after the fire by selectively restoring approximately 1000 doors from the total loss inventory is of no moment because Defendant was not fully and completely indemnified for its total inventory loss.

In addition, as the Court previously stated, the Court does not find that there was a fraud committed by Defendant. Apparently simultaneously to paying the insurance loss, Architectural Door was asked if any of the doors were sold as new, the Defendant promptly responded that it had inspected, cleaned, and sold select doors as new in order to meet customer demands. Again, the Defendant was underinsured and had not been paid the policy limits at the time that the doors were sold. Further, there is no dispute that the doors sold did not infringe into the covered amounts of the loss. Therefore, Section E (6) of the Policy was not violated.

#### CONCLUSION

Based on the above, the Court GRANTS Defendant's motion under MCR 2.116(C)(10) and sends Defendant Architectural Door's claim to appraisal pursuant to MCL 500.2833(1)(m) to

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<sup>3</sup> Architectural Response Brief, Exhibit 5.

<sup>4</sup> Architectural Response Brief, Exhibit 8.

resolve the issue of damages. The Court Denied Plaintiff's Motion for Reconsideration under MCR 2.119.

This is NOT a final order however the case is closed for Appraisal.

IT IS SO ORDERED.

