



## Michael Fabian

### Found True Calling Fighting for Consumer Insureds

by Jason Nevel

FARMINGTON HILLS — After her home in Rochester Hills was severely damaged in a fire in February 2016, Lisa Adams figured she and her family could piece their life back together.

After all, she, her husband and their son, who is a special needs child, weren't injured, and they had homeowners insurance. As the saying goes, items can be replaced, but people cannot.

The day after the fire, her brother-in-law handed her a business card for Farmington Hills-based attorney Michael H. Fabian, a founding partner of **Fabian, Sklar and King**. The law firm specializes in property insurance disputes against insurance companies. Adams' initial reaction was to dismiss Fabian's card.

Every month, they paid their premiums on their homeowner's insurance policy. The money had to be available when they needed it, or so she assumed.

Looking back, Adams says, it's hard for her to believe how credulous she was initially.

“We thought there weren’t going to be any problems,” she says. “But by Day 6, we were digging for the card.”

Adams says she hopes other homeowners aren’t as naive as she was after a fire strikes unexpectedly.

She had no idea her insurance company would try to needle her and offer less than half of what was awarded during an appraisal.

She also didn’t believe the insurance company would think it was OK for her to move back into her home without it being properly and completely repaired, especially with a special needs son.

“They really weren’t concerned that my house was going to smell or have the long-term health problems of living in a house damaged by a fire,” Adams says. “You pay, you pay and you pay and think, ‘If I ever have to have that, it’s there for me.’ But when you need to draw, it’s no longer your money.”

Adams hired Fabian, and she says it was one of the best decisions she ever made. He brought to her attention critical details in her policy, and he became the advocate she initially didn’t realize she needed.

One thing she didn’t grasp, Adam says, was that her policy stated she had only 60 days to inventory all her belongings.

At a time when you’re trying to make sure your child is fed and clothed and your family has a roof over its head, there’s little time to make a list of all your possessions, she says.

Fabian and his team took care of everything and argued with her insurance company on her behalf for how much they owed to properly repair her home and replace her family’s damaged contents. In the end, he filed a lawsuit and recovered more than double what the insurance company initially offered, Adams says.

Because of Fabian’s efforts, her family purchased a new home and has pieced their life back together one year later.

“Without (Fabian) representing us, that fire would have crippled us,” Adams says. “I’m so lucky I got his card.”

## Wrote Book on Property Insurance

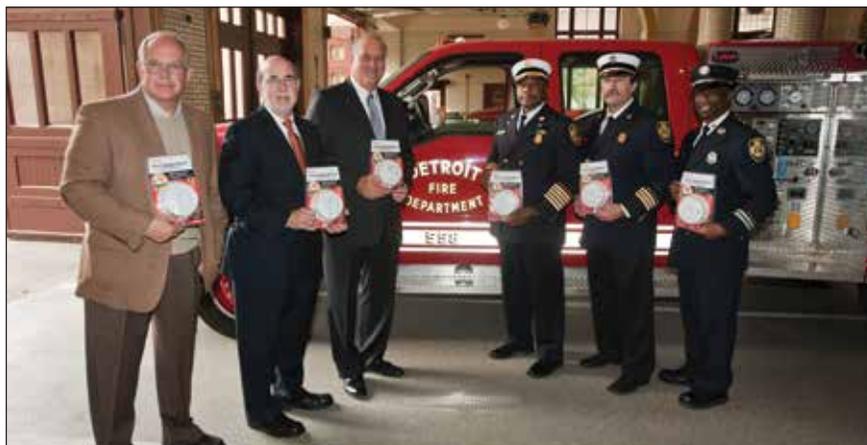
Fabian, 64, says helping families like the Adamses is why he specializes in his area of law.

In 1986, he founded the law practice, which evolved into Fabian, Sklar and King, for the sole purpose of protecting the rights of and maximizing the benefits to homeowners and businesses who have property insurance claims or disputes against their insurance company as a result of fires, explosions, water losses and other covered disasters.

The firm’s expertise has expanded into investigating the origin and cause of fires



Fabian in his Farmington Hills office with part of his collection of current and antique fire trucks



From left: Patrick King, Fabian and Stuart Sklar with members of the Detroit Fire Department. Each year Fabian, Sklar and King donates 500 smoke alarms to the department.



From left: King, Sklar and Fabian assess fire damage at the scene.

and litigating serious personal injury and wrongful death cases resulting from fires and explosions.

Fabian is a nationally recognized expert on insurance law and is an editor of *Michigan Insurance Law and Practice*. He lectures frequently on property insurance issues to numerous legal and professional groups throughout the country.

Fabian, a Michigan native who graduated from University of Detroit School of Law, has also been recognized by numerous legal publications as one of the top lawyers in his field.

His practice also includes his legal partner, Stuart Sklar, considered an expert in handling the origin and cause of fires and explosions.

“People walk into your office after

hitting rock bottom and need help,” Fabian says. “They’ve got kids to raise, and they’re trying to rebuild their life, or they may be business owners who have seen their life’s work literally go up in flames and now are in danger of losing their customers and source of income, and now they’re up against this insurance company with incredible resources who is not responding to their needs.

“I just love the challenges of handling these types of cases and being able to help people obtain the insurance proceeds necessary for them to rebuild or replace their homes and businesses.”

Fabian has earned the respect of not only his peers but also his counterparts who represent insurers.

Greg Meter, a lawyer based in Saginaw, says he has defended insurance companies against Fabian for 30 years. Out of all the lawyers he’s squared off against, few rival Fabian when it comes to integrity and thoroughness.

“His profile and reputation are well-earned because he is just one of those guys,” Meter says. “I have great respect for him.”

His favorite story about Fabian, and one he remembers like it was yesterday, Meter says, was around 15 years ago when a property owner Fabian was representing had a dispute with the insurance company after a fire.

The case had been ongoing for a while and made it to pre-trial before something unexpected happened, Meter says.

Fabian pulled him aside after that day’s discovery process and explained he would be withdrawing from the case. To this day, Meter says, he can’t say for sure why Fabian did that because his friend would never violate attorney-client privilege.

But it’s likely Fabian learned something about his client that didn’t sit well with him, and he felt uncomfortable continuing to represent him, Meter says.

“It was highly, highly unusual,” Meter says of Fabian. “That gives you an idea of his integrity.”

## Setting Legal Precedent

Some of the disputes involving insurance companies that Fabian has shepherded have set legal precedent nationwide.

Among the ones that have established legal precedent benefiting policyholders is an early 1990s case that made it to the Michigan Supreme Court, *Borman v. State Farm and Casualty Co.*

His motivation for taking the case had little to do with money, Fabian says. The damage to the small home after the fire totaled less than \$20,000 to repair. Rather, he says, it epitomized a situation where

good people who did nothing wrong were being victimized by insurance companies.

The case involved a fire in 1988 to an adult foster care home belonging to by Lillian Roach, whose grandson, Gary Borman, was purchasing it on a land contract.

Borman was accused of setting fire to the home in an attempt to collect insurance money, unbeknown to Roach.

Fabian says the case centered around what insurance companies call the intentional acts exclusion. That exclusion, simply put, says that if a person has engaged in intentional acts which cause the loss, the insurance company does not have to pay the claims of anyone who is insured under the policy.

The most common circumstance where the insurer uses the intentional acts exclusion to avoid paying a claim of an innocent policyholder, Fabian says, is when a couple separates and the estranged ex-husband burns down the house he lost in the divorce as payback to his former wife.

If both names appear on the policy, then the insurance company would use the intentional acts exclusion to avoid paying the wife, even though she did nothing wrong and was the intended victim.

“We handled a number of cases in domestic disputes and realized it’s a form of domestic violence,” Fabian says. “It’s a tool where, maybe he’s not striking the wife physically, but he is assaulting her through arson, which is in effect an act of violence.”

Fabian says State Farm refused to pay Roach because the exclusion in the policy was clear and unambiguous, and therefore it claimed it could rely on it to deny paying the claim.

The legal position Fabian presented was that the language in State Farm’s intentional acts exclusion violated the Michigan Insurance Code, which prohibits an insurance company from denying coverage to someone innocent of wrongdoing.

The case ultimately went to the Michigan Supreme Court. As part of presenting his argument, Fabian says, he reached out to more than a dozen domestic violence organizations, which filed *amicus curiae* briefs to express to the judges the real-life consequences of the case that might otherwise appear to be a mundane technical insurance issue.

By insurance companies utilizing the intentional acts exclusion to deny insurance proceeds to innocent victims of domestic abuse, they were advancing the goals of the perpetrators and victimizing the innocent spouse and children a second time by leaving them without the insurance proceeds to rebuild their homes and replace their personal belongings.

The Michigan Supreme Court agreed

with Fabian’s analysis, and the case is now cited across the country to protect domestic violence victims in cases of arson.

“To me, this is the most rewarding case I’ve ever handled,” Fabian says.

## Strong Upbringing

Fabian credits his social consciousness to his father, who owned a small television repair shop in Detroit when he was growing up.

His father, he says, was forced to raise four boys when his mother died when Fabian was 9 years old.

Despite the incredible burden of being a single parent during a time when single parent households were not common, Fabian says, his father remained positive and instilled in his sons the importance of giving back and treating others with respect.

Out of four sons, two became lawyers and two became CPAs.

“He was of a generous spirit and charitable in that he always taught us to do “the right thing” in life, not just to look out for ourselves. He believed in the strength of family and being a good example for your children,” Fabian says of his father.

Early on, Fabian says, he was interested in the law, politics and social issues. Learning about the law, he felt, was a way he could effect positive change in the country.

After he graduated from Oak Park High School just outside of Detroit, he enrolled at Michigan State University. He graduated from James Madison College, a smaller residential college within Michigan State that focused on political science and philosophy and international relations.

“It was a natural fit for me and terrific training for law school,” he says.

After Michigan State, he earned his law degree from the University of Detroit School of Law. At that time, he wasn’t sure what area of the law he wanted to focus on, Fabian says.

“I wish I could say I had a great plan to be a pioneer in property insurance, but that’s not the way it happened,” he says. “The one thing I did know was I didn’t want to work at a big firm.”

Fabian was hired at a small firm in the Detroit area that handled a variety of cases, including property insurance disputes. He worked on some property insurance cases early on, enjoyed success, and he realized he found his calling as a lawyer. Property insurance disputes became his specialty, and after eight years at the firm, he realized there was a need for a law firm that focused exclusively on representing homeowners and business owners in these disputes. He founded what is now Fabian, Sklar & King, P.C.

“We wanted to be the go-to law firm

for people in the state of Michigan when it came to these type of matters,” Fabian says. “Fortunately, it has worked out rather well.”

## **Giving Back to Detroit**

When the city of Detroit dipped further into its economic decline, officials were forced to cut programs and staff.

One casualty was a free smoke alarm installation program offered by the fire department. When he and his partners learned the program got axed, Fabian says, they made the decision to resurrect it.

Each year during Fire Prevention Week, Fabian, Sklar and King donates 500 smoke detectors, equipped with 10-year lithium batteries, to the fire department.

“Someone who does not have the resources can once again call the Detroit Fire Department, and they will come out to their home and install smoke detectors free of charge,” Fabian says. “It’s a program that truly saves lives.”

Each year, the practice pays the cost for five young burn victims to attend the Great Lakes Burn Camp near Kalamazoo. Fabian is also especially proud of an initiative his partner, Stuart Sklar, pushed to help the Detroit Fire Department.

Because of budget cuts, the fire department slashed training for fire investigators and the cost for them to travel to receive the training and take the tests to become “CFEIs,” certified fire and explosion investigators. The firm took it upon itself to bring in fire experts from across the country to Detroit for a three-day training seminar and to have the National Association of Fire Investigators then give the investigators the certification test in Detroit.

“The entire arson unit in Detroit passed the test and became certified fire investigators after that,” Fabian says.

At age 64, Fabian says, he still loves what he does and isn’t sure when he will retire and try to improve his golf game, which hasn’t gotten any better in five decades.

He remains grateful, he adds, to have the opportunity to help people in devastating situations and to have a wife, Rose, three children and two grandchildren who have always provided the support that has been instrumental to his achievements.

“This job is challenging, rewarding and fulfilling,” Fabian says. “It’s our calling.” ■