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## CASE SUMMARY: INSUREDS NOT ENTITLED TO ADDITIONAL LIVING EXPENSES IN EXCESS OF POLICY LIMITS NOTWITHSTANDING DELAYS IN EFFECTING REPAIRS AND PAYING OUT THE LOSS

Insureds not entitled to additional living expenses in excess of policy limits notwithstanding delays in effecting repairs and paying out the loss.

### **Insurance law – Property insurance – Mandatory appraisal – Promissory estoppel – Injunctions**

*Arvanitopoulos v. Wawanesa Mutual Insurance Co.*, [2022] O.J. No. 2196, 2022 ONSC 2613, Ontario Superior Court of Justice, April 29, 2022, P.M. Perell J.

A dispute arose between the insurer and the insureds in relation to a fire loss. The insurer insured the insureds' premises, which was damaged by a fire. The insurer undertook repairs to the premises. During the repairs there was further damage to the home. After one year the insureds barred the insurer and its contractors from the premises. The insurer commenced the appraisal process under the *Insurance Act*. That process stalled. The insureds commenced an action against the insurer approximately two years after the fire.

Seven years after the fire the premises have not been repaired, the appraisal process had not been completed and the action had not gone beyond the pleadings stage. After seven years of paying the insureds' additional living expenses, well beyond the limits of coverage, the insurer stopped the payments. This prompted the insureds to bring an interlocutory mandatory injunction.. The insurer brought its own motion for access to the premises.

The court dismissed both motions on the terms that the insurer pay ALE for an additional three months.

This case was digested by [Cameron B. Elder](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Cameron B. Elder at [celder@harpergrey.com](mailto:celder@harpergrey.com).