# Defense Verdict in Large Property Loss Case

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Shareholder Nicholas B. Kosiavelon and Associate Megan E. Fitzgerald recently won a defense verdict in a large property loss case.

The Plaintiff Insurer brought negligence and breach of contract claims against Defendant Propane Fuel Company in Massachusetts Federal District Court alleging the Defendant failed to deliver an adequate amount of propane to the Plaintiff's insured's ocean-side home, which allegedly caused the heat to fail and pipes to freeze and burst. The Plaintiff's claims amounted to a potential exposure of $1 million as a result of ensuing water damage.

The Defense focused on the Defendant's experience delivering propane and the reliability of documents showing the amount of delivery, as well as checks and balances to ensure accurate delivery. The Defense also developed a theory during trial that the reason the heat was off and the property propane tank was empty when the damage was discovered was because the pipes froze while the heat was on and that hot water ran continuously from a ruptured hot water line. Accordingly, the defense argued that the Plaintiff's damages were not caused by failure to deliver propane, but rather the Plaintiff's insured's failure to adequately insulate a crawl space where the frozen and burst pipes were located.

At the conclusion of the liability phase of the bifurcated trial, the jury returned a unanimous verdict in favor of the Defendant.

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