

## BOOM TIME

LAWYERS HELPED WRITE THE BOOK ON  
FIRE, EXPLOSION INVESTIGATIONS

BY TOM KIRVAN

**W**hen he first heard the news reports of a massive explosion that nearly leveled a furniture store in Wayne late last December, attorney Stuart Sklar figured he might be getting a call.

Within a matter of a few days, Sklar was hip deep in the impending case, knee deep in the charred rubble of what was once the William C. Franks Furniture store on South Wayne Road.

It is anything but glamorous work, tromping around buildings that have literally gone boom, sifting for clues in what will be a tedious post-mortem investigation.

But it is work for which the Farmington Hills firm of Fabian, Sklar & King has become known over the past 25 years. In short, the firm has acquired a national reputation as the “fire injury, explosion, and property damage” specialists.

It has been a hard-earned label, the product of years of painstaking legal and scientific work where each case is framed by its high cost and time-consuming nature.

“We pride ourselves in being able to hit the ground running when an explosion or fire happens,” says Sklar. “Time is always of the essence when managing a fire or explosion scene. Very few lawyers have the expertise to do that, to put the pieces together to determine the cause of a



Photo by Robert Chase

**Attorneys (l-r) Michael Fabian, Stuart Sklar, and Patrick King are widely recognized for their work representing clients involved in fire, explosion, and property damage cases.**

catastrophe. It's not your everyday kind of legal work.”

Michael Fabian, the founder of the firm, had just that kind of niche in mind when he opened his practice a quarter century ago. His blueprint was to build a firm that specialized in protecting the “rights of homeowners, business owners, and other policyholders in disputes against property insurance companies following disasters.” He knew it would be a daunting task to go “toe-to-toe” with well-heeled insurance

companies, but it was a challenge he was compelled to take.

“It may sound trite, but the opportunity to stand up for the so-called little guy is what drives us, to make sure that they are well represented in cases where they have suffered life-altering losses,” says Fabian, a 1975 graduate of Michigan State University who earned his law degree from the University of Detroit. “In cases like that, the client needs to know that we will match the insurance company dollar for dollar, punch for punch in terms of the investigation and expert analysis.”

The stakes invariably are high in such matters, sometimes costing in the hundreds of thousands of dollars to bring a case to the threshold of a satisfactory settlement or a full-blown trial, according to Sklar.

“You can't do this on the economy plan,” says Sklar of fire and explosion

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**STUART SKLAR**

investigations. “The insurance companies are going to go to great lengths to limit their liability. When they bring in a recognized expert on explosions, two metallurgists, and a corrosion engineer to testify, we have to do the same or more if we stand a chance of prevailing or settling the case.”

Patrick King, who joined the firm as a partner in 2001, knows the legal strategy full well. He spent a good chunk of his legal career on the “other side,” defending claims against insurers, looking for ways to avoid costly policy payouts. Like Sklar, King is a Certified Fire and Explosion Investigator (CFEI) through the National Association of Fire Investigators (NAFI).

“I try to play the devil’s advocate with each case we handle, to offer a defense perspective to the claim,” says King, who earned his bachelor’s degree from the University of Michigan and his law degree from Wayne State. “In most respects, the insurance company is looking at the case strictly in financial terms. They want to know the bottom line—what is it going to cost? That is their mindset.”

Sklar, who received his bachelor and law degrees from MSU, is widely regarded as one of the foremost authorities in the U.S. on conducting fire and explosion investigations. He serves on the Technical Committee on Fire Investigations, literally helping write the 2011 “*Guide for Fire & Explosion Investigations*” for the National Fire Protection Association. The 341-page handbook is the bible for fire investigators, providing guidance that is based on “accepted scientific principles or scientific research,” according to Sklar, acknowledging its technical and detailed coverage of the subject matter.

“So much of an investigation initially hinges on scene management,” says Sklar. “It is critical that evidence be preserved and that the scene not be disturbed until investigators have a chance to take stock of the situation. It can be particularly challenging when injuries or casualties have occurred, and there is an obvious need to make rescue attempts.

“In an explosion case, for instance, there will be law enforcement and fire officials on the scene, people from the utilities, regulatory agencies, as well as representatives of the insurance companies. And then us. A chaotic scene can become even more confused by the minute unless there is

someone on site who knows where to look for clues as to what happened,” says Sklar.

In many instances that person is Sklar, whose expertise in the investigative field came into national view 5 years ago when he was called to the scene of a propane gas explosion that rocked a summer resort in Ellison Bay, Wis., killing a vacationing Michigan couple, the parents of three children. A series of explosions, reportedly traced to an underground propane line that had been severed several days earlier by a contractor upgrading electrical service to docks at the Cedar Grove Resort, occurred in the early morning hours of July 10, 2006, destroying three buildings and heavily damaging nine others in the Door County town that is a magnet for summer vacationers. Two people were killed, seven people were injured, and a community was left in shock, searching for answers to the cause of the tragedy.

“It was hard to comprehend the devastation caused by that blast,” said Sklar, who along with King made their way to Ellison Bay within 24 hours of being summoned for help. “It was spread over a seven-acre site, cutting off the main public road. I can remember being struck by the contrast, looking one way to the beautiful waters of Lake Michigan and then the other to a mass of destruction, littered with clothes and personal belongings. It was heart-breaking.”

It also was the start of a two-year investigation that would entangle a number of defendants, produce 99 depositions, tens of thousands of pages of court documents, a \$21 million settlement, and passage of state legislation that requires the pinpointing of underground propane lines on all regulatory maps.

“All that was the result of a tragedy in which two people are dead and three children are suddenly orphaned,” said King. “That is not supposed to happen when you’re on a summer vacation.”

But the reality of such cases is far differ-

ent, requiring a systematic approach to the “management of a large scene, complex investigation,” according to Fabian.

“Each party involved has its own legal team out there, so this isn’t a job that you can do from the comfort of your office,” Fabian said. “It’s absolutely vital to get to the site as quickly as possible, to sift through as much of the remaining evidence as possible in hopes that it will produce answers to what happened. Stuart has gained such a reputation in the field that many of the investigators will look to him for guidance in trying to determine what caused the fire or explosion. He is able to make sense of a scene where hardly anything makes sense.”

Fabian is an editor of the “*Michigan*



Photo courtesy of Fabian, Sklar & King

**The aftermath of a July 2006 explosion in Door County, Wis. that killed a Detroit area couple. Fabian, Sklar & King recovered a \$21 million settlement for the three children of the couple who died in the propane gas explosion while vacationing at a resort in Ellison Bay.**

*Insurance Law and Practice*,” a handbook published by the Institute for Continuing Legal Education. He has successfully taken cases to the Michigan Supreme Court, most notably *Borman v. State Farm Insurance* in 1994, a legal triumph that protected the rights of an innocent co-insured party to a fire damage claim.

In the case of fraud and arson investigations that the firm handles, the answers aren’t always what a potential client wants to hear, Fabian indicated.

“Our investigation will serve as a litmus test,” Fabian said of those facing allegations of arson and fraud. “We will determine the cause of the fire or explosion, and obviously we are only going to represent clients who have a legitimate insurance or liability claim. Our name on a case file should make a statement as to its validity.”