

# BANKING LAW ALERT

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## IS YOUR COLLATERAL INSURED?

In the case of *PacTech vs. Auto Owners Insurance Co.*, the insured ("PacTech") and the insured's lienholder (Mr. Black, who had made loans to PacTech secured by machinery and equipment) filed suit to collect on a fire insurance loss policy. A fire occurred in an insured building where PacTech housed battery manufacturing and packaging equipment. Mr. Black had made loans to PacTech secured by PacTech's battery manufacturing equipment and packaging equipment.

Mr. Black submitted a claim to Auto Owners pursuant to the clause in the insurance policy providing for payment of certain losses suffered by a mortgage holder.

Although the Trial Court ruled that Mr. Black had coverage under the insurance policy, the Court of Appeals reversed the ruling from being in favor of Mr. Black to being in favor of Auto Owners. The Court of Appeals looked to the language for the mortgage holder in PacTech's insurance policy with Auto Owners by explaining that the mortgage holder's coverage applied only to "buildings and structures" and not to "personal property." Because the coverage was limited to buildings and structures, the Court of Appeals found there was no language in the mortgage holders clause in the insurance policy that made the insurance applicable to loss or damage to personal property. Correspondingly, Mr. Black was denied a recovery and the insurance company was successful.

**OUR RECOMMENDATION:** Be sure in your insurance coverage that you get adequate explanation and documentation on what is covered by the mortgagee or loss payee provision. If the loan is secured by personal property, as well as buildings and structures, or just secured by personal property, be sure the declaration provisions on the Insurance Accord are accurate and appropriate to cover the property on which you hold a lien.



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