

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-cv-22151-JEM

REINOL A. GONZALEZ, DMD., P.A.,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

CLASS ACTION

SENTINEL INSURANCE
COMPANY LIMITED,

JURY TRIAL DEMANDED

Defendant.

AMENDED CLASS ACTION COMPLAINT

Plaintiff Reinol A. Gonzalez, D.M.D., P.A., individually and on behalf of all others similarly situated, files this class action against the Sentinel Insurance Company, Limited (“Sentinel”), and in support states the following:

INTRODUCTION

1. Plaintiff Reinol A. Gonzalez, D.M.D., P.A., is the operator of a dental practice located at 4789 Southwest 148th Avenue, in Davie, Florida.
2. To protect the dental practice and the income from operation of the dental practice, Plaintiff purchased a property insurance policy with policy number 01 SBA AZ4326 DW (the “Policy”).

3. The Policy was issued and underwritten by Defendant Sentinel.

4. The Policy is a bilateral contract: Plaintiff agreed to pay monthly premiums to Defendant, in exchange for Defendant's promises of coverage for certain losses.

5. Among other types of coverage, the Policy protects Plaintiff against a loss of business income due to a suspension of the dental practice's operations. This type of coverage is often referred to as business interruption coverage.

6. The Policy also provides "Extra Expense" coverage, under which Defendant promised to pay expenses incurred to minimize the suspension of business.

7. Additionally, the Policy provides "Civil Authority" coverage, under which Defendant promised to pay for loss of business income caused by the action of a civil authority prohibiting access to the dental practice.

8. Plaintiff duly complied with its obligations under the Policy and paid the requisite premiums.

9. Beginning in March 2020, Plaintiff was forced to suspend operations at the dental practice, as a result of physical loss of and damage to its property related to COVID-19. Related actions of civil authorities also prohibited access to and occupancy of the dental practice. This suspension, which is ongoing, has caused Plaintiff to suffer significant losses and incur significant expenses.

10. Under the Policy, Defendant promised to cover these losses and expenses, and is obligated to pay for them, subject to the applicable limit of insurance. But in blatant breach of their contractual obligations, Defendant failed to pay for these losses and expenses.

11. Upon information and belief, Defendant failed to pay for similar losses and expenses by at least thousands of other insureds holding policies that are, in all material respects, identical.

THE PARTIES

12. Plaintiff Reinol A. Gonzalez, D.M.D. is a Florida corporation organized to do business and doing business at 4789 Southwest 148th Avenue, Suite 205, Davie, Florida 33330.

13. Defendant Sentinel Insurance Company, Limited is a Connecticut corporation with its principal place of business in Hartford, Connecticut, and is registered with a licensed by the Florida Department of Financial Services to provide insurance in the State of Florida.

14. At all times material, Defendant engaged in substantial and not isolated activity on a continuous and systematic basis in the state of Florida, namely by issuing and selling insurance policies in Florida and by contracting to insure property located in Florida.

15. Service of process on Defendant may be effectuated by serving their Registered Agent, the Chief Financial Officer of the state of Florida, located at 200 East Gaines Street, Tallahassee Florida 32399.

JURISDICTION AND VENUE

16. This Court has subject matter jurisdiction under 28 U.S.C. § 1332 because there is diversity between Defendant and at least one member of each class; there are more than one hundred members of each class; and the amount in controversy exceeds \$5,000,000 exclusive of interest and costs. This Court also has subject matter jurisdiction under 28 U.S.C. §§ 2201 and 2202 and is authorized to grant declaratory relief under these statutes.

17. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events and/or omissions giving rise to the claims occurred within the

Southern District of Florida, and a substantial part of property that is subject of the action is situated in this district.

18. This Court has personal jurisdiction over Defendant pursuant to Fla. Stat. § 48.193(1)(a) because Plaintiff's claims arise out of, among other things, Defendant conducting, engaging in, and/or carrying on business in Florida; Defendant breaching a contract in this state by failing to perform acts required by contract to be performed in this state; and Defendant contracting to insure property in Florida, including but not limited to the premises insured under the Policy. Defendant also purposefully availed itself of the opportunity of conducting activities in the state of Florida by marketing its insurance policies and services within the state, and intentionally developing relationships with brokers, agents, and customers within the state to insure property within the state, all of which resulted in the policy at issue in this action.

FACTUAL BACKGROUND

The Policy

19. In August 2019, Plaintiff obtained the Policy, a property insurance policy issued and underwritten by Defendant. The Policy has a policy period of August 5, 2019 to August 5, 2020. The insured premises under the Policy are 4789 Southwest 148th Avenue, Suite 205, in Davie, Florida, the location of Reinol Gonzalez's dental practice.¹

20. The Policy is an all-risk insurance policy. In an all-risk insurance policy, all risks of loss are covered unless they are specifically excluded.

21. Consistent with the all-risk nature of the Policy, Defendants specifically agreed to pay for all losses caused by "Covered Causes of Loss," defined as "Risks Of Direct Physical Loss" unless the loss is excluded under the Policy.

¹ The Policy is attached to this complaint as Exhibit "A."

22. Sentinel's Special Property Coverage Form provides various "Time Element Coverages," including "Business Income" coverage, "Civil Authority" coverage, and "Extra Expense" coverage.

23. The Policy provides coverage for loss of business income, often called business interruption insurance. This coverage is specifically provided for in a section of the Policy titled "Business Income."

24. Pursuant to this coverage, Defendant promised to pay for "Loss of Business Income" caused by a Covered Cause of Loss. Specifically, Defendant promised to pay for the loss of Business Income sustained due to the necessary "suspension" of the insured's "operations" during the "period of restoration."

We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration".

25. Each of the operative terms of this coverage provision is defined as follows.

26. Business Income means the net profit that the business would have earned absent the suspension of operations, plus any continuing normal operating expenses, including payroll.

(4) Business Income means the:
(a) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no direct physical loss or physical damage had occurred; and
(b) Continuing normal operating expenses incurred, including payroll.

27. Suspension means, among other things, a partial slowdown or complete cessation of the insured's business activities.

With respect to the coverage provided in this Additional Coverage, suspension means:
(a) The partial slowdown or complete cessation of your business activities; or

28. Period of Restoration means the period of time beginning on the date of the physical loss or damage to the property and ending on the date when the property is repaired or the date when business is resumed at a new location.

12. "Period of Restoration" means the period of time that:
a. Begins with the date of direct physical loss or physical damage caused by or resulting from a Covered Cause of Loss at the "scheduled premises", and
b. Ends on the date when:
(1) The property at the "scheduled premises" should be repaired, rebuilt or replaced with reasonable speed and similar quality;
(2) The date when your business is resumed at a new, permanent location.

29. Additionally, under the Policy, Defendant also promised to cover "Extended Business Income." This coverage requires Defendant to pay for loss of business income *beyond* the Period of Restoration under certain conditions.

30. Specifically, Defendant promised to pay for the actual loss of Business Income during the period that begins on the date that the insured property is repaired, and ends either 30 days thereafter or on the date when operations are restored to the level which would generate business income at normal levels, whichever is earlier.

31. In addition to promising to pay for loss of Business Income, under the Policy, Defendant also promised to pay for certain necessary "Extra Expense[s]." Extra Expenses mean expenses that the policyholder incurs to, for example, minimize the suspension of business.

32. Under the “Civil Authority” coverage, Defendant promised to pay for the loss of Business Income and Extra Expense that the Plaintiff sustained as a result of “order of a civil authority” that prohibits access to the insured premises.

This insurance is extended to apply to the actual loss of Business Income you sustain when access to your "scheduled premises" is specifically prohibited by order of a civil authority as the direct result of a Covered Cause of Loss to property in the immediate area of your "scheduled premises".

33. This Civil Authority provision is an independent basis for business interruption coverage. That is, it can be triggered even when the standard business interruption coverage is not.

34. Plaintiff was forced to suspend business activities due to COVID-19 and the resultant closure orders issued by civil authorities in Florida.

35. Plaintiff suffered direct physical loss, direct physical damage, and actual loss to its property as a result of the presence of COVID-19 within its property, and necessary physical restrictions and alterations undertaken to mitigate further property loss and damage.

36. Notably, Plaintiff’s Policy does not contain any exclusion which would apply to allow Defendant to completely deny coverage for losses caused by COVID-19 and related actions of civil authorities taken in response to COVID-19.

The Virus Coverage Endorsement in the Policy

37. The presence of virus or disease can constitute physical damage to property, as the insurance industry has recognized since at least 2006. When preparing so-called “virus” exclusions to be placed in some policies, but not others, the insurance industry’s drafting arm, the Insurance Services Office (ISO), which works in conjunction with Sentinel, circulated a statement to insurers and state insurance regulators that included the following:

Disease-causing agents may render a product impure (change its quality or substance), or enable the spread of disease by their presence on interior building surfaces or the surfaces of personal property. When disease-causing viral or bacterial contamination occurs, potential claims involve the cost of replacement of property (for example, the milk), cost of decontamination (for example, interior building surfaces), and business interruption (time element) losses. Although building and personal property could arguably become contaminated (often temporarily) by such viruses and bacteria, the nature of the property itself would have a bearing on whether there is actual property damage. An allegation of property damage may be a point of disagreement in a particular case.

38. Despite recognizing that the spread of a virus such as COVID-19 could constitute “business interruption (time element) losses,” or “actual property damage,” and despite incorporating ISO forms and language in various parts of the Policy, Defendant Sentinel elected not to include the ISO’s standard “virus” exclusion in Plaintiff’s policy.

39. Instead, Sentinel included a specific “virus” inclusion provision: The Virus Coverage Endorsement.

40. The Policy incorporates Sentinel’s “Limited Fungi, Bacteria or Virus Coverage” endorsement (the “Virus Coverage Endorsement”), which applies to the Special Property Coverage Form.

41. The Virus Coverage Endorsement provides limited coverage for losses caused by virus.

We will pay for loss or damage by “fungi”,
wet rot, dry rot, bacteria and virus.

42. The Virus Coverage Endorsement states, with respect to the Special Property Coverage Form’s Time Element Coverages, that if a suspension of operations is “necessary due to loss or damage to property caused by . . . virus,” then Sentinel’s payment under the Time Element Coverage is limited to the amount of loss and expense sustained during a period of thirty days or the number of days indicated in the policy’s declarations.

43. To the extent that Defendant contends, as it did in its initial motion to dismiss, that this coverage does not apply based on vague or internally inconsistent language elsewhere in the Virus Coverage Endorsement, this argument must be rejected—and has already been rejected by courts. Under Florida law, ambiguous policy provisions are interpreted strictly against the insurer, and insurance policies cannot be construed such as to render a policy’s grant of coverage illusory. *See, e.g., Urogynecology Specialist of Florida LLC v. Sentinel Ins. Co.*, No. 20-cv-1174, 2020 WL 5939172 (M.D. Fla. Sep. 24, 2020); *Dickson v. Econ. Premier Assur. Co.*, 36 So. 3d 789, 790 (Fla. Dist. Ct. App. 2010); *First Mercury Ins. Co. v. Sudderth*, 620 Fed. App’x 826, 830 (11th Cir. 2015).

44. Accordingly, because the Policy is an all-risk policy, does not exclude the losses that Plaintiff has suffered, and expressly and affirmatively provides certain coverages for loss or damage by virus, Plaintiff’s losses are covered up to the applicable limit(s) of insurance.

Plaintiff’s covered losses

45. As of October 15, 2020, according to the Florida Department of Health, COVID-19 was present in all of Florida’s 67 counties, with Miami-Dade and Broward counties being the most affected counties. As of May 20, Broward County, where Davie is located, had over six thousand confirmed cases of COVID-19, and at least 285 deaths. At the time of this filing, Broward County has had over 80,000 confirmed cases of COVID-19, and at least 1,485 deaths.

46. The widespread presence of COVID-19 and the public health emergency it created prompted actions by civil authorities throughout the United States (“Civil Authority Actions”), including but not limited to civil authorities with jurisdiction over Reinol A. Gonzalez, D.M.D., P.A.: the City of Davie, Broward County, and the state of Florida. These Civil Authority Actions have restricted and prohibited access to the insured property as a direct result of a Covered Cause of Loss to property in the immediate area of Plaintiff’s premises.

47. On March 20, 2020, the Governor of Florida issued Executive Order 20-70. This Order, which expressly covers only Broward County and adjacent Palm Beach County, required all restaurants, bars, pubs, and similar establishments with seating for more than ten people to close on-premises food service.

48. On March 26, 2020, Broward County issued Emergency Order 20-03, “Directing Shelter-in-Place: Safer at Home Policy.” Among other things, this Order required the closure of all non-essential businesses. Emergency Order 20-03 was expressly issued by the Broward County Administrator, who concluded: “this Emergency Order is necessary because of the propensity of the virus to spread person to person and also because *the virus is physically causing property damage* due to its proclivity to attach to surfaces for prolonged periods of time.” (emphasis added).

49. On March 20, 2020, the Governor of Florida signed Executive Order 20-72, prohibiting a variety of medical facilities—including dental practices—from providing non-urgent and non-emergency procedures.

50. On March 30, 2020, the Governor of Florida signed Executive Order 20-89, ordering Broward County, among other counties, “to restrict public access” to non-essential businesses.

51. On April 29, 2020, the Governor of Florida signed Executive Order 20-112, allowing dental facilities to reopen only subject to certain restrictions and requirements. Among other things, the Executive Order requires that the facility have the capacity to immediately convert surgical beds for treatment of COVID-19 patients in a surge capacity situation.

52. In Florida, violations of an executive order issued by the Governor pursuant to the State Emergency Management Act are second-degree misdemeanors punishable by imprisonment.

53. It is highly likely that COVID-19 and the coronavirus have been physically present on Plaintiff's property during the policy period.

54. The presence of COVID-19 caused direct physical loss of and/or physical damage to the insured premises under the Policy by, among other things, damaging the property, denying access to the property, preventing customers and patients from physically occupying the property, causing the property to be physically uninhabitable by customers and patients, causing its function to be nearly eliminated or destroyed, forcing and compelling Plaintiff to impose physical restrictions and physical alterations on the functioning of its property, and/or causing a suspension of business operations on the premises.

55. The Civil Authority Actions prohibiting public access to the covered premises and the surrounding area were issued in response to dangerous physical conditions and as the direct result of a Covered Cause of Loss to property in the immediate area of Plaintiff's premises and caused a suspension of business operations on the covered premises.

56. As a result of the presence of COVID-19, Reinol A. Gonzalez, D.M.D., P.A. has suffered a suspension of business operations, sustained losses of business income, and incurred extra expenses.

57. As a result of the Civil Authority Actions, Reinol A. Gonzalez, D.M.D., P.A. has suffered a suspension of business operations, sustained losses of business income, and incurred extra expenses.

58. These losses and expenses have continued through the date of filing of this action.

59. These losses and expenses are not excluded from coverage under the Policy. And because the Policy is an all-risk policy, and Plaintiff has complied with its contractual obligations, Plaintiff is entitled to payment for these losses and expenses.

60. Accordingly, Plaintiff provided notice of its losses and expenses to Defendant, consistent with the terms and procedures of the Policy.

61. But contrary to the plain language of the Policy, and to Defendant's corresponding promises and contractual obligations, Defendant refused to pay for Plaintiff's losses and expenses.

CLASS ACTION ALLEGATIONS

62. The class claims all derive directly from a single course of conduct by Defendant: its systematic and uniform refusal to pay insureds for losses suffered due to the COVID-19 pandemic and the related actions taken by civil authorities to suspend business operations.

63. Plaintiff brings this action pursuant to Rules 23(a), 23(b)(1), 23(b)(2), and/or 23(b)(3), as well as 23(c)(4), of the Federal Rules of Civil Procedure, individually and on behalf of all others similarly situated. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions.

64. Plaintiff seeks to represent nationwide classes defined as:

a) All persons and entities with Business Income coverage under a property insurance policy issued by Defendant, which suffered a suspension of business due to COVID-19, and for which Defendant has denied a claim for the losses or have otherwise failed to acknowledge, accept as a covered loss, or pay for the covered losses ("the Business Income Coverage Class").

b) All persons and entities with Civil Authority coverage under a property insurance policy issued by Defendant, which suffered loss of Business Income and/or Extra Expense caused by an action of a civil authority, and for which Defendant has denied a claim for the losses or has otherwise failed to acknowledge, accept as a covered loss, or pay for the covered losses ("the Civil Authority Coverage Class").

c) All persons and entities with Extra Expense coverage under a property insurance policy issued by Defendant, which sought to avoid or minimize the suspension of business caused by COVID-19 and/or the actions of civil authorities in response to COVID-19, and for which Defendant has denied a claim for the expenses or has otherwise failed to acknowledge, accept as a covered expense, or pay for the covered expenses (“the Extra Expense Coverage Class”).

d) All persons and entities with a Virus Coverage Endorsement under a property insurance policy issued by Defendant, which suffered a suspension of business and sought to avoid or minimize the suspension of business caused by COVID-19 and/or the actions of civil authorities in response to COVID-19, and for which Defendant has denied a claim for the losses and expenses or has otherwise failed to acknowledge, accept as a covered expense, or pay for the covered expenses the Time Element losses suffered (“the Virus Coverage Endorsement Coverage Class”).

65. Excluded from each defined proposed Class are Defendant and any of its members, affiliates, parents, subsidiaries, officers, directors, employees, successors, or assigns; governmental entities; Class Counsel and their employees; and the judicial officers and Court staff assigned to this case and their immediate family members.

66. Plaintiff reserves the right to modify, expand, or amend the definitions of the proposed Classes, as appropriate, during the course of this litigation.

67. This action has been brought and may properly be maintained on behalf of each Class proposed herein under the criteria of Rule 23 of the Federal Rules of Civil Procedure.

Numerosity and Ascertainability

68. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(1). The members of each proposed Class are so numerous that individual joinder of all Class members is impracticable.

There are, at a minimum, thousands of members of each proposed Class, and these individuals and entities are spread out across the country.

69. The identity of Class members is ascertainable, as the names and addresses of all Class members can be identified in Defendant's or its agents' books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, internet postings, and/or published notice.

Predominance of Common Issues

70. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(2) and 23(b)(3) because this action involves common questions of law and fact which predominate over any questions affecting only individual Class members. Defendant issued all-risk policies to all the members of each proposed Class in exchange for payment of premiums by the Class members. The questions of law and fact affecting all Class members include, without limitation, the following:

- a) Whether Plaintiff and the Class members suffered a covered loss under the common policies issued to members of the Class;
- b) Whether Defendant wrongfully denied all claims related to COVID-19;
- c) Whether Defendant's Business Income coverage applies to a suspension of business caused by COVID-19 and/or related actions of civil authorities taken in response to the presence or threat of COVID-19;
- e) Whether Defendant's Civil Authority coverage applies to a loss of Business Income caused by the orders of local, municipal, city, county, and/or state governmental entities requiring the suspension of business during the outbreak of COVID-19 in the United States;

- f) Whether Defendant's Extra Expense coverage applies to efforts to avoid or minimize a loss caused by COVID-19;
- g) Whether Defendant's Virus Coverage Endorsement coverage applies to losses caused by COVID-19;
- h) Whether Defendant has breached its contracts of insurance through a uniform and blanket denial of all claims for business losses related to COVID-19 and/or the related actions of civil authorities taken in response to the presence or threat of COVID-19;
- i) Whether Plaintiff and the Class members suffered damages as a result of Defendant's actions; and
- j) Whether Plaintiff and the Class members are entitled to an award of reasonable attorneys' fees, interest, and costs.

Typicality

71. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(3) because Plaintiff's claims are typical of the claims of the Class members and arise from the same course of conduct by Defendant. Plaintiff and the other Class members are all similarly affected by Defendant's refusal to pay under their property insurance policies. Plaintiff's claims are based upon the same legal theories as those of the other Class members. Plaintiff and the other Class members sustained damages as a direct and proximate result of the same wrongful practices in which Defendant engaged. The relief Plaintiff seeks is typical of the relief sought for the absent Class members.

Adequacy of Representation

72. This action satisfies the requirements of Fed. R. Civ. P. 23(a)(4) because Plaintiff will fairly and adequately represent and protect the interests of Class members. Plaintiff has retained counsel with substantial experience in prosecuting complex class action litigation.

73. Plaintiff and its counsel are committed to vigorously prosecuting this action on behalf of the Class members and have the financial resources to do so. Neither Plaintiff nor its counsel has interests adverse to those of the Class members.

Inconsistent or Varying Adjudications and the Risk of Impediments to Other Class Members' Interests

74. This action satisfies the requirements of Fed. R. Civ. P. 23(b)(1). Plaintiff seeks class-wide adjudication as to the interpretation and scope of Defendant's property insurance policies. The prosecution of separate actions by individual members of the proposed Classes would create an imminent risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for Defendant.

Final Injunctive and/or Corresponding Declaratory Relief with respect to the Class is Appropriate

75. This action satisfies the requirements of Fed. R. Civ. P. 23(b)(2) because Defendant acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive and/or corresponding declaratory relief with respect to the Class members. The class claims all derive directly from Defendant's systematic and uniform refusal to pay insureds for losses suffered due to the COVID-19 pandemic and the related actions taken by civil authorities to suspend business operations. Defendant's actions or refusal to act are grounded upon the same generally applicable legal theories.

Superiority

76. This action satisfies the requirements of Fed. R. Civ. P. 23(b)(3) because a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The common questions of law and of fact regarding Defendant's conduct and the interpretation of the common language in their property insurance policies predominate over any questions affecting only individual Class members.

77. Because the damages suffered by certain individual Class members may be relatively small, the expense and burden of individual litigation would make it very difficult or impossible for all individual Class members to redress the wrongs done to each of them individually, such that many Class members would have no rational economic interest in individually controlling the prosecution of specific actions, and the burden imposed on the judicial system by individual litigation by even a small fraction of the Class would be enormous, making class adjudication the superior alternative under Fed. R. Civ. P. 23(b)(3)(A).

78. The conduct of this action as a class action presents far fewer management difficulties, far better conserves judicial resources and the parties' resources, and far more effectively protects the rights of each Class member than would piecemeal litigation. Compared to the expense, burdens, inconsistencies, economic infeasibility, and inefficiencies of individualized litigation, the challenges of managing this action as a class action are substantially outweighed by the benefits to the legitimate interests of the parties, the Court, and the public of class treatment in this Court, making class adjudication superior to other alternatives, under Fed. R. Civ. P. 23(b)(3)(D).

79. Plaintiff is not aware of any obstacles likely to be encountered in the management of this action that would preclude its maintenance as a class action. Rule 23 provides the Court with authority and flexibility to maximize the efficiencies and benefits of the class mechanism and reduce management challenges. The Court may, on motion of Plaintiff or on its own determination, certify nationwide, statewide and/or multistate classes for claims sharing common legal questions; utilize the provisions of Rule 23(c)(4) to certify any particular claims, issues, or common questions of fact or law for class-wide adjudication; certify and adjudicate bellwether class claims; and utilize Rule 23(c)(5) to divide any Class into subclasses.

CAUSES OF ACTION

COUNT I: DECLARATORY JUDGMENT
(On behalf of the Business Income Coverage Class)

80. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

81. Plaintiff brings this Count individually and on behalf of the other members of the Business Income Coverage Class.

82. Under 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction to declare the rights and other legal relations of the parties in dispute.

83. Plaintiff's Policy, as well as the policies of other Business Income Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses for claims covered by the Policy.

84. In the Policy, Defendant promised to pay for losses of business income sustained as a result of perils not excluded under the Policy. Specifically, Defendant promised to pay for losses of business income sustained as a result of a suspension of business operations during the Period of Restoration.

85. COVID-19 caused direct physical loss of and damage to Reinol A. Gonzalez, D.M.D., P.A. and other Class members' insured premises, resulting in suspensions of business operations at these premises. These suspensions have caused Plaintiff and Class members to suffer losses of business income.

86. These suspensions and losses triggered business income coverage under the Policy and other Class members' policies.

87. Plaintiff and the other Class members have complied with all applicable provisions of their respective policies, including payment of premiums.

88. Defendant, without justification, disputes that the Policy and other Class members' policies provide coverage for these losses.

89. Plaintiff seeks a Declaratory Judgment that its Policy and other Class members' policies provide coverage for the losses of business income.

90. An actual case or controversy exists regarding Plaintiff's and other Class members' rights and Defendant's obligations to reimburse Plaintiff and other Class members for the full amount of these losses. Accordingly, the Declaratory Judgment sought is justiciable.

WHEREFORE, Plaintiff requests that this Court enter a Declaratory Judgment declaring that the Policy and other Class members' policies provide coverage for Class members' losses of business income.

COUNT II: BREACH OF CONTRACT
(On behalf of the Business Income Coverage Class)

91. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

92. Plaintiff brings this Count individually and on behalf of the other members of the Business Income Coverage Class.

93. Plaintiff's Policy, as well as the policies of other Business Income Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses for claims covered by the Policy.

94. In the Policy, Defendant promised to pay for losses of business income sustained as a result of perils not excluded under the Policy. Specifically, Defendant promised to pay for losses of business income sustained as a result of a suspension of business operations during the Period of Restoration.

95. COVID-19 caused direct physical loss of and damage to Reinol A. Gonzalez, D.M.D., P.A. and other Class members' insured premises, resulting in suspensions of business

operations at these premises. These suspensions have caused Class members to suffer losses of business income.

96. These suspensions and losses triggered business income coverage under the Policy and other Class members' policies.

97. Plaintiff and the other Class members have complied with all applicable provisions of their respective policies, including payment of premiums.

98. Defendant, without justification, have refused performance under the Policy and other Class members' policies by denying coverage for these losses and expenses. Accordingly, Defendant is in breach of the Policy and other Class members' policies.

99. As a result of Defendant's breaches of the Policy and other Class members' policies, Plaintiff and other Class members have suffered actual and substantial damages for which Defendant is liable.

WHEREFORE, Plaintiff, individually and on behalf of other Class members, seeks compensatory damages resulting from Defendant's breaches of the Policy and other Class Members' policies and seek all other relief deemed appropriate by this Court, including attorneys' fees and costs.

COUNT III: DECLARATORY JUDGMENT
(On behalf of the Extra Expense Coverage Class)

100. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

101. Plaintiff brings this Count individually and on behalf of the other members of the Extra Expense Coverage Class.

102. Under 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction to declare the rights and other legal relations of the parties in dispute.

103. Plaintiff's Policy, as well as the policies of other Extra Expense Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses for claims covered by the Policy.

104. Specifically, Defendant promised to pay for Extra Expenses incurred by Plaintiff and other Class members during the Period of Restoration that the insureds would not have incurred if there had been no loss or damage to the insured premises. These Extra Expenses include expenses to avoid or minimize the suspension of business, continue operations, and to repair or replace property.

105. COVID-19 caused direct physical loss of and damage to Reinol A. Gonzalez, D.M.D., P.A. and other Class members' insured premises, resulting in suspensions of business operations at these premises. As a result, Plaintiff and other Class members have incurred Extra Expenses.

106. These Expenses triggered Extra Expense coverage under the Policy and other Class members' policies.

107. Plaintiff and the other Class members have complied with all applicable provisions of their respective policies, including payment of premiums.

108. Defendants, without justification, dispute that the Policy and other Class members' policies provide coverage for these Extra Expenses.

109. Plaintiff, individually and on behalf of the other members of the Extra Expense Coverage Class, seeks a Declaratory Judgment that its Policy, and those of other members of the Extra Expense Coverage Class, provides coverage for these Extra Expenses.

110. An actual case or controversy exists regarding Class members' rights and Defendants' obligations under Class members' policies to reimburse Class members for these Extra Expenses. Accordingly, the Declaratory Judgment sought is justiciable.

WHEREFORE, Plaintiff requests that this Court enter a Declaratory Judgment declaring that the Policy and other Class members' policies provide coverage for Class members' Extra Expenses.

COUNT IV: BREACH OF CONTRACT
(On behalf of the Extra Expense Coverage Class)

111. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

112. Plaintiff brings this Count individually and on behalf of the other members of the Extra Expense Coverage Class.

113. Plaintiff's Policy, as well as the policies of other Extra Expense Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses for claims covered by the Policy.

114. Specifically, Defendant promised to pay for Extra Expenses incurred by Plaintiff and other Class members during the Period of Restoration that the insureds would not have incurred if there had been no loss or damage to the insured premises. These Extra Expenses include expenses to avoid or minimize the suspension of business, continue operations, and to repair or replace property.

115. COVID-19 caused direct physical loss of and damage to Reinol A. Gonzalez, D.M.D., P.A. and other Class members' insured premises, resulting in suspensions of business operations at these premises. These suspensions have caused Class members to incur Extra Expenses.

116. These Expenses triggered Extra Expense coverage under the Policy and other Class members' policies.

117. Plaintiff and the other Class members have complied with all applicable provisions of the Policy, including payment of premiums.

118. Defendant, without justification, have refused performance under the Policy and other Class members' policies by denying coverage for these Extra Expenses. Accordingly, Defendant is in breach of the Policy and other Class members' policies.

119. As a result of Defendant's breaches of the Policy and other Class members' policies, Plaintiff and other Class members have suffered actual and substantial damages for which Defendant is liable.

WHEREFORE, Plaintiff, individually and on behalf of other Class members, seeks compensatory damages resulting from Defendant's breaches of the Policy and other Class Members' policies and seek all other relief deemed appropriate by this Court, including attorneys' fees and costs.

COUNT V: DECLARATORY JUDGMENT
(On behalf of the Civil Authority Coverage Class)

120. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

121. Plaintiff brings this Count individually and on behalf of the other members of the Civil Authority Coverage Class.

122. Under 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction to declare the rights and other legal relations of the parties in dispute.

123. Plaintiff's Policy, as well as the policies of other Civil Authority Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses for claims covered by the policies.

124. In the Policy and other Class members' policies, Defendant promised to pay for losses of business income sustained and extra expenses incurred when, among other things, a Covered Cause of Loss causes damage to property near the insured premises, the civil authority prohibits access to property near the insured premises, and the civil authority action is taken in response to dangerous physical conditions.

125. Plaintiff and other Class members have suffered losses and incurred expenses as a result of actions of civil authorities that prohibited access to insured premises under the Policy and Class members' policies.

126. These losses satisfied all requirements to trigger Civil Authority coverage under the Policy and other Class members' policies.

127. Plaintiff and the other Class members have complied with all applicable provisions of the Policy, including payment of premiums.

128. Defendant, without justification, disputes that the Policy provides coverage for these losses.

129. Plaintiff seeks a Declaratory Judgment that its Policy and other Class members' policies provide coverage for the losses that Class members have sustained and extra expenses they have incurred caused by actions of civil authorities.

130. An actual case or controversy exists regarding Class members' rights and Defendant's obligations under Class members' policies to reimburse Class members for these losses and extra expenses. Accordingly, the Declaratory Judgment sought is justiciable.

WHEREFORE, Plaintiff, individually and on behalf of other Class members, requests that this Court enter a Declaratory Judgment declaring that the Policy provides Civil Authority coverage for the losses and extra expenses incurred by Plaintiff and the other Class members.

COUNT VI: BREACH OF CONTRACT
(On behalf of the Civil Authority Coverage Class)

131. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

132. Plaintiff brings this Count individually and on behalf of the other members of the Civil Authority Coverage Class.

133. Plaintiff's Policy, as well as the policies of other Civil Authority Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses and expenses covered by the Policy.

134. In the Policy and other Class members' policies, Defendant promised to pay for losses of business income sustained and extra expenses incurred when a Covered Cause of Loss causes damage to property near the insured premises, the civil authority prohibits access to property near the insured premises, and the civil authority action is taken in response to dangerous physical conditions.

135. Plaintiff and other Class members have suffered losses and incurred expenses as a result of actions of civil authorities that prohibited access to insured premises under the Policy and Class members' policies.

136. These losses satisfied all requirements to trigger Civil Authority coverage under the Policy and other Class members' policies.

137. Plaintiff and the other Class members have complied with all applicable provisions of the Policy, including payment of premiums.

138. Defendant, without justification, have refused performance under the Policy and other Class members' policies by denying coverage for these losses and expenses. Accordingly, Defendant is in breach of the Policy and other Class members' policies.

139. As a result of Defendant's breaches of the Policy and other Class members' policies, Plaintiff and other Class members have suffered actual and substantial damages for which Defendant is liable.

WHEREFORE, Plaintiff seeks compensatory damages resulting from Defendant's breaches of the Policy and other Class members' policies and seek all other relief deemed appropriate by this Court, including attorneys' fees and costs.

COUNT VII: DECLARATORY JUDGMENT
(On behalf of the Virus Coverage Endorsement Coverage Class)

140. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 above.

141. Plaintiff brings this Count individually and on behalf of the other members of the Virus Coverage Endorsement Coverage Class.

142. Under 28 U.S.C. §§ 2201 and 2202, this Court has jurisdiction to declare the rights and other legal relations of the parties in dispute.

143. Plaintiff's Policy, as well as the policies of other Virus Coverage Endorsement Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses for claims covered by the policies.

144. Sentinel's Special Property Coverage Form provides various "Time Element Coverages," including "Business Income" coverage, "Civil Authority" coverage, and "Extra Expense" coverage.

145. The Special Property Coverage Form's "Business Income" coverage promises to pay for loss due to the necessary suspension of operations following physical loss of or damage to the insured premises.

146. The Special Property Coverage Form’s “Civil Authority” coverage promises to pay for loss caused by the action of a civil authority that prohibits access to the insured premises because of damage to property in the immediate area of the insured premises.

147. The Special Property Coverage Form’s “Extra Expense” coverage promises to pay the expense incurred to minimize the suspension of business and to continue operations.

148. The Policy also incorporates Sentinel’s “Limited Fungi, Bacteria or Virus Coverage” endorsement (the “Virus Coverage Endorsement”), which applies to the Special Property Coverage Form.

149. The Virus Coverage Endorsement provides limited coverage for losses caused by virus.

150. The Virus Coverage Endorsement states, with respect to the Special Property Coverage Form’s Time Element Coverages, that if a suspension of operations is “necessary due to loss or damage to property caused by . . . virus,” then Sentinel’s payment under the Time Element Coverage is limited to the amount of loss and expense sustained during a period of thirty days or the number of days indicated in the policy’s declarations.

151. Plaintiff was forced to suspend business due to COVID-19 and the resultant closure orders issued by civil authorities in Florida.

152. Plaintiff and other Class members have suffered losses and incurred expenses as a result of losses that fall within the coverage provided by the Virus Coverage Endorsement and related Time Element Coverages.

153. These losses satisfied all requirements to trigger Virus Coverage Endorsement coverage under the Policy and other Class members’ policies.

154. Plaintiff and the other Class members have complied with all applicable provisions of the Policy, including payment of premiums.

155. Defendant, without justification, disputes that the Policy provides coverage for these losses.

156. Plaintiff seeks a Declaratory Judgment that its Policy and other Class members' policies provide coverage for the Time Element losses that Class members have sustained which are covered by the Virus Coverage Endorsement.

157. An actual case or controversy exists regarding Class members' rights and Defendant's obligations under Class members' policies to reimburse Class members for these losses and extra expenses. Accordingly, the Declaratory Judgment sought is justiciable.

WHEREFORE, Plaintiff, individually and on behalf of other Class members, requests that this Court enter a Declaratory Judgment declaring that the Policy provides Virus Coverage Endorsement coverage for the losses and extra expenses incurred by Plaintiff and the other Class members.

COUNT VIII: BREACH OF CONTRACT
(On behalf of the Virus Coverage Endorsement Coverage Class)

158. Plaintiff re-adopts and re-alleges paragraphs 1 through 79 and 136 through 143 above.

159. Plaintiff brings this Count individually and on behalf of the other members of the Virus Coverage Endorsement Coverage Class.

160. Plaintiff's Policy, as well as the policies of other Virus Coverage Endorsement Coverage Class members, are insurance contracts under which Defendant was paid premiums in exchange for promises to pay Class members' losses and expenses covered by the Policy.

161. In the Policy and other Class members' policies, Defendant promised to pay for losses of business income sustained and extra expenses incurred when a Covered Cause of Loss causes damage resulting in losses covered by the Time Element provisions of the Policy.

162. Plaintiff and other Class members have suffered losses and incurred expenses as a result of the presence of COVID-19 upon its premises and in the vicinity as necessary to provide coverage under the Virus Coverage Endorsement and Time Element coverages of the policy.

163. These losses satisfied all requirements to trigger Virus Coverage Endorsement coverage under the Policy and other Class members' policies.

164. Plaintiff and the other Class members have complied with all applicable provisions of the Policy, including payment of premiums.

165. Defendant, without justification, has refused performance under the Policy and other Class members' policies by denying coverage for these losses and expenses. Accordingly, Defendant is in breach of the Policy and other Class members' policies.

166. As a result of Defendant's breaches of the Policy and other Class members' policies, Plaintiff and other Class members have suffered actual and substantial damages for which Defendant is liable.

WHEREFORE, Plaintiff seeks compensatory damages resulting from Defendant's breaches of the Policy and other Class members' policies and seek all other relief deemed appropriate by this Court, including attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor and against Defendant, as follows:

- A. Entering an order certifying the proposed nationwide Classes, designating Plaintiff as Class representative, and appointing Plaintiff's undersigned attorneys as Counsel for the classes;
- B. Entering declaratory judgments on Counts I, III, V and VII in favor of Plaintiff and the members of the Business Income Coverage Class, Civil Authority Coverage Class, Extra Expense Coverage Class, and Virus Coverage Endorsement Class as follows:
 - i. Business Income, Civil Authority and Extra Expense losses and expenses incurred and sustained as a result of COVID-19 and related civil authority actions are insured and covered losses and expenses under Plaintiff's and Class members' policies; and
 - ii. Defendant is obligated to pay for the full amount of the Time Element, Business Income, Civil Authority and Extra Expense losses and expenses sustained and incurred, and to be sustained and incurred, as a result of COVID-19 and related civil authority actions are insured and covered losses and expenses under Plaintiff and Class members' policies;
- C. Entering judgments on counts II, IV, VI and VIII in favor of Plaintiff and the members of the Business Income Coverage Class, Civil Authority Coverage Class, Extra Expense Coverage Class, and Virus Coverage Endorsement Class; and awarding damages for breach of contract in an amount to be determined at trial;
- D. An order requiring Defendant to pay both pre- and post-judgment interest on any amounts awarded;
- E. An award of costs and attorneys' fees; and

F. Such other or further relief as may be appropriate.

DEMAND FOR JURY TRIAL

The undersigned hereby demands a trial by jury as to all issues so triable.

Dated: October 15, 2020

PODHURST ORSECK, P.A.

/s/ Steven C. Marks

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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record and any other electronic filer as of the time of the filing.

/s/ Steven C. Marks
Steven C. Marks)