

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ERIK TAUBE, DMD, DBA TAUBE)
FAMILY DENTAL, on behalf of)
himself and all others similarly situated,)

Plaintiff,)

v.)

HARTFORD FINANCIAL SERVICES GROUP)
INC, DBA THE HARTFORD, a Delaware)
Corporation, and TWIN CITY FIRE)
INSURANCE COMPANY, an Indiana)
Corporation)

Defendants.)

Case No.: 20-cv-565

JURY TRIAL DEMANDED

PLAINTIFF'S CLASS ACTION COMPLAINT

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ERIK TAUBE, DMD, dba TAUBE FAMILY DENTAL (“Plaintiff”), individually and on behalf of other similarly situated persons and entities operating dental practices in Illinois, makes the following allegations based upon information and belief, except as to those allegations specifically pertaining to Plaintiff, which are based on personal knowledge. Plaintiff brings this action for breach of contract, damages pursuant to 215 ILCS 5/155, and declaratory and injunctive relief against DEFENDANT HARTFORD CASUALTY INSURANCE COMPANY (“The Hartford”) and Twin City Fire Insurance Company (“Twin City”) (collectively “Defendants”), demanding a trial by jury.

I. NATURE OF THE ACTION

1. Erik Taube, DMD, is a dentist practicing in Mascoutah, Illinois. To make sure that he would be protected if he was forced to temporarily cease his practice by unanticipated events beyond his control, he purchased a commercial insurance policy from The Hartford. That policy is attached hereto as Exhibit A.

2. Such an event, namely the worst health crisis to hit the State of Illinois, the United States, and indeed the world in over a century, arrived in early 2020 in the form of a worldwide pandemic of a disease called COVID-19, causing a massive number of illnesses and numerous deaths.

3. Like Plaintiff, many other dental practices have purchased insurance from The Hartford to protect against losses from catastrophic events like the current unforeseen COVID-19 pandemic. These policies promise to indemnify the policyholder for actual business losses incurred when business operations are involuntarily suspended, interrupted, or curtailed because of direct physical loss of or damage to the property. This coverage is commonly known as “business interruption” or “business income” coverage.

4. Insurance is a way to manage risk, providing protection from financial loss. It is particularly appropriate – indeed, vital – for protection against losses that, while unlikely to occur, would be financially devastating if they do occur. Or as The Hartford explains on its website, insurance protects you from the unexpected:

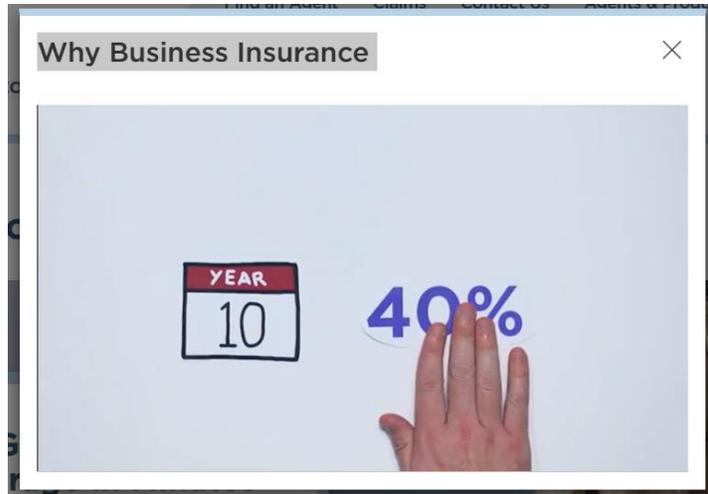
Popular Business Insurance Solutions

Business insurance, also known as commercial insurance, helps protect business owners from unexpected losses.

5. The Hartford’s website includes a clever video to explain why businesses should purchase insurance:



The narrator begins by saying: “Most business owners don’t think they’ll ever need to use their insurance,” while a hand draws the company’s symbol and the word “Business” as shown above.



He continues: "But within a 10-year span, over 40% experience an event that leads to a claim."



Continuing: "Making sure unfortunate events won't cost you your livelihood ..."



“... is just one way The Hartford can help you prevail when the unexpected strikes.”



“At The Hartford we offer broad protection for small, mid-sized and enterprise-level businesses across a wide range of industries.”

6. The COVID-19 pandemic is the epitome of the unexpected catastrophic event – especially for dentists. As a result of it, on March 17, 2020, the State of Illinois asked dental offices “to postpone elective procedures, surgeries and non-urgent visits, but be available for emergencies.”¹ On that date, Plaintiff shut down his practice except for emergency visits, something he never expected to have to do.

7. On March 16, 2020, the American Dental Association (“ADA”) recommended the cessation of day-to-day dental procedures. On March 23, 2020, the Centers for Disease Control (“CDC”) and ADA both recommended to all dentists in the United States that elective, or non-urgent dental procedures be postponed to help reduce the risk of spreading COVID-19.²

8. Accordingly, beginning on March 17, 2020, and continuing for approximately two months, in response to these recommendations and because of the risk of continuing his dental

¹ <https://www.dph.illinois.gov/covid19/community-guidance/oral-and-dental-care-guidance> (accessed 6/15/2020).

² <https://content.govdelivery.com/accounts/MODIFP/bulletins/282c1ac> (accessed 5/8/2010).

practice during the COVID-19 pandemic, Plaintiff shut down his practice. During that period, he saw only a handful of patients and only for urgent problems.

9. According to surveys conducted by the American Dental Association, all or virtually all other dental practices in Illinois also completely ceased seeing patients for elective or non-urgent visits for the same reasons.

10. However, despite the provision of business income coverage in its policies, Defendants are refusing to comply with their obligation to pay for business income losses and covered expenses incurred by policyholders as a result of the physical loss and damage to their insured property arising from the COVID-19 pandemic.

11. Defendants seek to justify their decision to unilaterally and preemptively deny coverage owed to their insureds on grounds that are patently specious. They state that there is no coverage because a virus cannot cause physical loss or damage to property as required by the policy. However, beginning in 2006, Defendants' policy specifically *excluded* certain types of property loss or damage caused by viruses (though not the type of losses sustained by Plaintiff). If viruses could not cause property loss or damage, there would have been no reason to exclude them from the policy because they wouldn't have been covered to begin with. Defendants are grasping at straws and know that there is coverage for Plaintiff's losses, as well as those of other dental practices.

12. Plaintiff brings this action on behalf of a class of Illinois dental practices (as defined below) that purchased standard Hartford commercial property insurance policies that provide for business income loss and extra expense coverage and do not exclude coverage for pandemics, and who have suffered business income and extra expense losses.

13. This action also seeks a declaratory judgment that Hartford is contractually obligated to pay these losses. In addition, Plaintiff seeks damages, attorneys' fees and costs, and any other

relief that this Court deems equitable and just, arising out of Hartford's breach of contract and wrongful conduct alleged herein.

II. THE PARTIES

14. Plaintiff, a licensed dentist, operates a dental practice at 104 East Main, Mascoutah, IL 62258, in St. Clair County.

15. Dr. Taube has practiced dentistry at that address for over five years. Aside from giving his patients regular examinations and teeth cleaning, the treatments he provides include teeth whitening, cosmetic contouring, fillings, dental implants, veneers, crowns and bridges, invisalign aligners, root canal therapy, and treatment of toothaches.

16. The Hartford is an insurance company incorporated in Delaware with its principal place of business at One Hartford Plaza, Hartford, CT 06155.

17. Twin City is an insurance company incorporated in Indiana with its principal place of business at One Hartford Plaza, Hartford, CT 06155.

III. JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction under 28 U.S.C. § 1332 because there is complete diversity between Defendants and at least one member of the class; there are more than one hundred members of the class; and the amount in controversy exceeds \$5,000,000.00, exclusive of interest and costs. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. §§ 2201 and 2202 and is authorized to grant declaratory relief under these statutes.

19. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part, if not all, of the acts and omissions complained of in this action took place in this district.

IV. FACTUAL ALLEGATIONS

A. The Global COVID-19 Pandemic

20. According to the World Health Organization (“WHO”) COVID-19 is an infectious disease for which there are no vaccines or treatments.³ It spreads easily from person-to-person.⁴

21. When an infected person coughs, sneezes, or even just talks, droplets with the infectious agent fly into the air from the person’s nose or mouth and can thereby infect others. This can occur even if the person is asymptomatic.⁵ As WebMD states, “Some people who don't know they've been infected can give it to others. This is called asymptomatic spread. You can also pass it on before you notice any signs of infection, called presymptomatic spread.”⁶

22. Thus, absent testing, there is no way to know whether a person with whom one comes into contact might be spreading the disease.

23. The coronavirus can live in the air for up to three hours, be breathed in by others, and get into their lungs, where it can infect them.⁷

24. The coronavirus can also infect people who touch surfaces, such as countertops, doorknobs – and, of course, dental equipment – that contain the virus. It can live on plastic and stainless steel for up to three days.⁸

25. COVID-19 is a new disease. The first known outbreak was a cluster of cases of pneumonia in Wuhan, Hubei Province in China in December 2019.⁹ The disease did not even have an official name when WHO declared a “Public Health Emergency of International

³ https://www.who.int/health-topics/coronavirus#tab=tab_1 (accessed 6/15/2020).

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html#:~:text=On%20March%2011%2C%20the,of%20new%20influenza%20viruses.> (accessed 6/15/2020).

⁵ <https://www.webmd.com/lung/coronavirus-transmission-overview#1> (accessed 6/15/2020).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19> (accessed 6/15/2020).

Concern” on January 30, 2020.¹⁰ The disease was given its name by WHO on February 11, 2020, short for “coronavirus disease 2019.”¹¹

26. After it was first discovered, COVID-19 spread rapidly. On March 11, 2020, “[d]eeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction, WHO made the assessment that COVID-19 can be characterized as a pandemic.”¹²

27. A pandemic is “an outbreak of a disease that occurs over a wide geographic area and affects an exceptionally high proportion of the population.”¹³ To be classified as a pandemic, WHO requires “the worldwide spread of a new disease.”¹⁴

28. At the point that WHO labeled COVID-19 a pandemic on March 11, 2020, the number of cases outside China in just the past two weeks had increased by 13-fold to 118,000 in 114 countries; more than 4,000 people had lost their lives, and as the Director-General of WHO stated, “[t]housands more [were] fighting for their lives in hospitals.”¹⁵

29. According to the COVID Tracking Project, 1,672 patients at that point had tested positive in the United States, and 43 patients had died.¹⁶ From March 11 on, the number of cases and deaths increased rapidly. By March 23, 2020, the number of cases had increased more than 28 times to 47,013 and the number of deaths had increased by 12 times to 521.

¹⁰ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen> (accessed 6/15/2020).

¹¹ https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200211-sitrep-22-ncov.pdf?sfvrsn=fb6d49b1_2 (accessed 6/15/2020).

¹² <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19> (accessed 6/15/2020).

¹³ <https://www.merriam-webster.com/dictionary/pandemic> (accessed 5/11/2020) (accessed 6/15/2020).

¹⁴ https://www.who.int/csr/disease/swineflu/frequently_asked_questions/pandemic/en/ (accessed 6/15/2020).

¹⁵ <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (accessed 6/15/2020).

¹⁶ <https://covidtracking.com/data/us-daily> (accessed 6/15/2020).

30. As of June 15, 2020, according to the *New York Times*, 2.1 million Americans have tested positive for COVID-19, and 116,000 have died from the disease.¹⁷ That was more than any other country in the world and the 10th highest on a per capita basis in both metrics.¹⁸

31. Illinois was hit hard by COVID-19, and the number of people affected has climbed rapidly. As of March 11, 2020, when COVID-19 was first declared a worldwide pandemic, there were 26 COVID-19 cases and no deaths in this state. By March 23, those numbers had grown to 1,273 cases and 12 deaths. One month later, there were more than 100,000 Illinois cases, and nearly 5,000 Illinois residents had died of the disease. By June 14, those numbers had climbed to 133,000 and 6,500 respectively.¹⁹

32. St. Clair County has been significantly affected. As of June 15, there were 1,626 cases and 126 deaths, representing 1 in 162 persons and 1 in 2,091 respectively.²⁰

B. Standards and Recommendations Related to the Pandemic for Dental Practices

33. Although Governor Pritzker's stay-at-home order, issued March 20, 2020, did not include dental visits, the State recommended that dental offices not perform "elective procedures, surgeries and non-urgent visits."²¹ As the Illinois Department of Public Health states, the reason for this recommendation was that "[m]any dental procedures produce an aerosol. When this occurs in patients with COVID-19, there is risk of spread to dental office staff and patients. This measure supports recommendations to stay-at-home and conserves masks and other PPE for urgent procedures and front-line health care workers."²²

¹⁷ <https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html> (accessed 6/15/2020).

¹⁸ *Id.*

¹⁹ <https://covidtracking.com/data/state/illinois#historical> (accessed 6/15/2020).

²⁰ <https://www.nytimes.com/interactive/2020/us/illinois-coronavirus-cases.html> (accessed 6/15/2020).

²¹ <https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx> (accessed 6/15/2020).

²² <https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx> (accessed 6/15/2020).

34. Similarly, in mid-March, the CDC and the ADA recommended that elective, or non-urgent dental procedures, be postponed to reduce the risk of spreading COVID-19.²³

35. The CDC explained that these recommendations were based on the risk of infection in dental offices, especially because of the spatter of bodily fluids and microorganisms:

The practice of dentistry involves the use of rotary dental and surgical instruments (e.g., handpieces or ultrasonic scalers) and air-water syringes. These instruments create a visible spray that contains large particle droplets of water, saliva, blood, microorganisms, and other debris. This spatter travels only a short distance and settles out quickly, landing on the floor, nearby operatory surfaces, dental health care personnel (DHCP), or the patient. The spray also might contain certain aerosols.²⁴

36. CDC went on to explain that the precautions it recommended in other healthcare settings were not possible for dental practices because dental settings “are not designed for or equipped to provide this standard of care. For example, most dental settings do not have airborne infection isolation rooms or single-patient rooms, do not have a respiratory protection program, and do not routinely stock N95 respirators.”²⁵

37. Accordingly, CDC recommended that “[s]ervices should be limited to urgent and emergency visits only during this period of the pandemic. These actions help staff and patients stay safe, preserve personal protective equipment and patient care supplies, and expand available health system capacity.”²⁶

²³ <https://content.govdelivery.com/accounts/MODIFP/bulletins/282c1ac> (accessed 5/11/2020). They made those recommendations on March 18. https://aonaffinity-blob-cdn.azureedge.net/affinitytemplate-dev/media/dentistsadvantagedev/media/risk/alerts/rmalert_coronavirus_march2020.pdf (accessed 6/15/2020).

²⁴ <https://web.archive.org/web/20200327164143/https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html> (accessed 6/15/2020) (footnote omitted).

²⁵ <https://web.archive.org/web/20200327164143/https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html> (accessed 6/15/2020).

²⁶ *Id.*

38. On March 16, the ADA recommended that dental practices “halt day-to-day non-emergency procedures.”²⁷ On that date, ADA President Chad P. Gehani stated: “[T]he ADA recommends dentists nationwide postpone elective procedures for the next three weeks.”²⁸

39. That same date, the Illinois State Dental Society (“ISDS”), the state-ADA affiliate, recommended that Illinois dental offices close for the next two weeks. The ISDS “cite[d] the high-risk dental professionals are placed in due to their proximity to patients as one of the reasons for this recommendation.” The group stated: “Dentists are in one of the highest risk categories for transmission and contraction of the virus, with many routine dental procedures potentially transmitting the virus via aerosolization of fluids.”²⁹

40. On April 1, the ISDS recommended “that dentists cease all in-person dental treatment except for dental emergencies until further notice” and “that the public only seek dental care in case of dental emergencies.”³⁰

41. As of mid-May, 2020, CDC’s recommendations were still in effect.³¹ When the CDC reiterated them on April 7, 2020, it noted that the United States Occupational Safety and Health Administration had said that dental healthcare professionals were at very high risk of COVID-19 “as their jobs are those with high potential for exposure to known or suspected sources of the virus that causes COVID-19 during specific procedures.”³²

²⁷ <https://www.dentalproductsreport.com/dental/article/ada-isds-announce-recommendations-practices-close-due-coronavirus> (accessed 6/15/2020).

²⁸ <https://www.dentalproductsreport.com/dental/article/ada-isds-announce-recommendations-practices-close-due-coronavirus> (accessed 6/15/2020).

²⁹ <https://www.dentalproductsreport.com/dental/article/ada-isds-announce-recommendations-practices-close-due-coronavirus> (accessed 6/15/2020).

³⁰ <https://www.dentalproductsreport.com/dental/article/ada-isds-announce-recommendations-practices-close-due-coronavirus> (accessed 6/15/2020).

³¹ <https://web.archive.org/web/20200515075321/https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html> (accessed 6/15/2020) (“Services should be limited to emergency visits only during this period of the pandemic.”).

³² <https://web.archive.org/web/20200414014847/https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html> (accessed 6/15/2020).

42. CDC did not provide recommendations for resuming non-emergency dental care until May 19, 2020. When it did so it stated: “Dental settings have unique characteristics that warrant specific infection control considerations.”³³ Its specific recommendations included:

- a. Practice universal source control and actively screen for fever and symptoms of COVID-19 for all people who enter the dental facility.
- b. If patients do not exhibit symptoms consistent with COVID-19, provide dental treatment only after you have assessed the patient and considered both the risk to the patient of deferring care and the risk to DHCP of healthcare-associated disease transmission.
- c. Ensure that you have the appropriate amount of personal protective equipment (PPE) and supplies to support your patient volume. If PPE and supplies are limited, prioritize dental care for the highest need, most vulnerable patients first.³⁴

43. On May 8, the Illinois Department of Public Health recommended that Illinois dentists begin re-opening their offices on May 11, 2020, consistent with its “guidance for minimizing risk of transmission of COVID-19 in an oral healthcare setting”; that guidance included use of certain protective equipment such as portable HEPA filters and appropriate personal protective equipment (“PPE”).³⁵

44. However, dentists had difficulty opening up at that time because of the unavailability of sufficient PPE. Dr. Terri Tiersky, president of the Chicago Dental Society, was quoted on May 15, 2020, saying “N95 masks and gowns are extremely hard to get, as are suitable face shields.”³⁶

³³ <https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html> (accessed 6/15/2020).

³⁴ <https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html> (accessed 6/15/2020; emphasis added).

³⁵ https://www.isds.org/docs/librariesprovider3/default-document-library/20200508_covid-19_interim_guidance_r.pdf?sfvrsn=0 (accessed 6/15/2020).

³⁶ <https://www.chicagotribune.com/coronavirus/ct-coronavirus-dentists-reopen-20200516-f5opw56zzf5fjmqdgcnil7mq-story.html> (accessed 6/15/2020).

45. Nationwide, during the week of May 18, 53.2% of dentists who were closed except for emergencies reported that the reason was an inadequate supply of PPE.³⁷

46. In fact, as the ISDS noted on May 1, 2020, “[t]he major hurdle for Dentists” in re-opening their practices was the availability of adequate and proper PPE. It stated to its members “The current system for acquiring PPE is controlled by FEMA [the Federal Emergency Management Agency], which allocates supplies to the states based on perceived need and then distributes them through the Public Health System. Dentistry is at the low end of the priority list for receiving needed PPE.”³⁸

C. The Devastating Impact of the COVID-19 Pandemic on Dental Practices

47. In the face of the Covid-19 pandemic, Plaintiff and other Illinois dentists had no choice but to shut down their practices except to see patients for non-elective and urgent care. Any reasonable dentist would have shut down except for such emergencies.

48. For example, Plaintiff’s practice was completely shut down except for a handful of emergency patients from March 17, 2020, when the ADA issued its recommendation, until May 14, when he opened for half a day. He opened full-time the next day.

49. As would be expected, these shutdowns had a terrible economic impact on dentists.

50. On April 15, 2020, Marko Vujicic, Ph. D., chief economist and vice president of the ADA’s Health Policy Institute (“HPI”), was quoted as saying that “the coming two to three months represent a critical juncture for the economic sustainability of many dental practices.”³⁹

51. And in fact, April was devastating to dentists’ practices. A good example is what happened during the week of April 20. According to an ADA national survey, that week 79.4 %

³⁷ Health Policy Institute, COVID-19: Economic Impact on Dental Practices (Week of May 18 Results), available at <https://surveys.ada.org/reports/RC/public/YWRhc3VydmV5cy01ZWMyYjAzMzYxMWNmMTAwMTBiZWU4NDgtVVJfNWJWDFFU01IdmNDUIVO> (accessed 6/15/2020) at 21.

³⁸ <https://www.isds.org/news-details/2020/05/01/actionrequiredforcare> (accessed 6/15/2020).

³⁹ <https://us.dental-tribune.com/news/dentists-report-financial-impact-of-covid-19-on-their-practices/> (accessed 6/15/2020)

of dental practices were closed except for emergency patients, and another 17.2% were closed completely, meaning that 96.6% of dentists in the United States were completely shut down except possibly for emergencies; the other few were open but had lower volume than usual.⁴⁰

52. In Illinois that week, 84.7% of dentists were seeing only emergency patients, and 14.7% were completely closed. Only 0.3% reported to the survey that his or her practice was open with business as usual.⁴¹

53. Nationwide, dentists reported that their patient volume had plummeted. In the week of April 20, more than 96.0% were either completely closed or seeing only emergency patients. Total patient volume was less than 5% of what was typical for 86.0% and between 5 and 10% for another 7.7%⁴²

54. The condition of Illinois dental practices was typical. More than 99% of Illinois dentists that week were either completely closed or seeing only emergency patients; 89.8% saw their patient volume at 5% of what was typical and for 4.9% it was between 5 and 10%.⁴³

55. Not surprisingly, the financial impact on dentists has been overwhelming. That same week of April 20, 76.9% of dentists nationwide collected less than 5% in fees compared to what was typical in their practice, and another 13.0% collected between 5 and 10%.⁴⁴

56. Again, Illinois was typical, with 77.5% collecting less than 5% of the typical amount, and another 13.4% collecting between 5-10% during the week of April 20. Only 2.5% collected even 76% or more of what was typical.⁴⁵

⁴⁰ Health Policy Institute, COVID-19: Economic Impact on Dental Practices (Week of April 20 Results) (“Economic Impact”), available at <https://surveys.ada.org/reports/RC/public/YWRhc3VydM5cy01ZTlkYjFIMTRIZDkxOTAwMTU4NTU4ZmItVVJfNWlJWDFFU01IdmNDUIVO> (accessed 6/15/2020) at 1, 6.

⁴¹ Economic Impact at 4.

⁴² Economic Impact at 6.

⁴³ Economic Impact at 12.

⁴⁴ Economic Impact at 6.

⁴⁵ Economic Impact at 14.

57. In addition, dentists have had to incur extra expenses to re-open. Plaintiff has had to buy High Efficiency Air (“HEPA”) filters for each room, protective gowns, seat covers, N95 masks, and higher level disinfection chemicals and sprays, among other things. In addition, his staff has spent extra time each day calling and screening patients for virus-like symptoms, and his appointment times have been changed from 45 minutes per cleaning to a full hour because of extra paperwork and disinfection time.

D. Hartford’s Spectrum Business Owner’s Insurance Policy

58. In exchange for premiums paid by Plaintiff to Defendants, Plaintiff obtained a Spectrum Business Owner’s Policy issued by the Hartford, with Twin City as the “insurer,” Policy Number 84 SBA BF6721 SA, covering a Policy Period from 9/10/2019 to 9/10/2020 (Exhibit A) (“the policy”).

59. The policy’s Special Property Coverage Form states that the coverage is “for direct physical loss of or physical damage to Covered Property at the premises described in the Declarations (also called ‘scheduled premises’ in this policy) caused by or resulting from a Covered Cause of Loss.” Ex. A at 28 (page numbers refer to the page of the pdf file).

60. The scheduled premises are 104 E. Main St., Mascoutah IL 62258, which is where Plaintiff maintains and conducts his dental practice. Ex, A at 12.

61. “Covered Property” means the buildings and structures at that address, including fixtures, machinery, and certain other property. In other words, the Covered Property is the office suite where Plaintiff conducts his business. Ex. A at 28.

62. The inability of Plaintiff and his patients to access the property because of the COVID-19 pandemic constituted a direct physical loss of the Covered Property at the scheduled premises.

63. The coverage provided by the policy includes loss of Business Income:

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’. The suspension must be caused by direct physical loss of or physical damage to property at the ‘scheduled premises’, including personal property in the open (or in a vehicle) within 1,000 feet of the ‘scheduled premises,’ caused by or resulting from a Covered Cause of Loss.

Ex. A at 37.

64. “Operations” means “your business activities occurring at the ‘scheduled premises”

Ex. A at 51. In other words, that is Plaintiff’s practice of dentistry.

65. “Period of restoration” means the period “begin[ning] 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 ending when the property is restored. Ex. A at 51. Here, the period of restoration began when Plaintiff first experienced loss of the property because of the COVID-19 pandemic.

66. The policy provides that, for purposes of the above provision, “suspension” includes “[t]he partial slowdown or complete cessation of your business activities.” Ex. A at 38. Because Plaintiff’s business activities suffered a partial slowdown or complete cessation, Plaintiff experienced a suspension.

67. COVID-19 is a “covered cause of loss” under the policy. Covered Causes of Loss are defined as follows:

RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

- a. Excluded in Section **B.**, **EXCLUSIONS**; or
- b. Limited in Paragraph **A.4.** Limitations

Ex. A at 29. Because the COVID-19 pandemic created a risk of direct physical loss, it is a “covered cause of loss” unless excluded or limited. None of the Exclusions in Section B or the Limitations in Paragraph A.4 apply to COVID-19. Ex. A at 29, 43-45. Therefore, COVID-19 is a covered cause of loss.

68. Plaintiff's policy also covers Plaintiff's "Extra Expense" for expenditures made necessary by the COVID-19 pandemic. Ex. A at 37-38. Specifically, the policy states:

(1) We will pay reasonable and necessary Extra Expense you incur during the 'period of restoration' that you would not have incurred if there had been no direct physical loss or physical damage to property at the 'scheduled premises'... caused by or resulting from a Covered Cause of Loss.

(3) Extra Expense means expense incurred:

(a) To avoid or minimize the suspension of business and to continue 'operations':

(i) At the 'scheduled premises'; ...

(b) To minimize the suspension of business if you cannot continue "operations".

(c) (i) To repair or replace any property; or

(ii) ... to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage o., Business Income.

We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or physical damage. This Additional Coverage is not subject to the Limits of Insurance.

69. The policy also covers Plaintiff's Extended Business Income for losses that occur after the property is restored, as follows:

(1) If the necessary suspension of your 'operations' produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

(a) Begins on the date property is actually repaired, rebuilt or replaced and 'operations' are resumed; and

(b) Ends on the earlier of:

(i) The date you could restore your 'operations' with reasonable speed, to the condition that would have existed if no direct physical loss or damage occurred; or

(ii) 30 consecutive days after the date determined in (1)(a) above.

Loss of Business Income must be caused by direct physical loss or physical damage at the ‘scheduled premises’ caused by or resulting from a Covered Cause of Loss.

(2) With respect to the coverage provided in this Additional Coverage, suspension means:

(a) The partial slowdown or complete cessation of your business activities; and

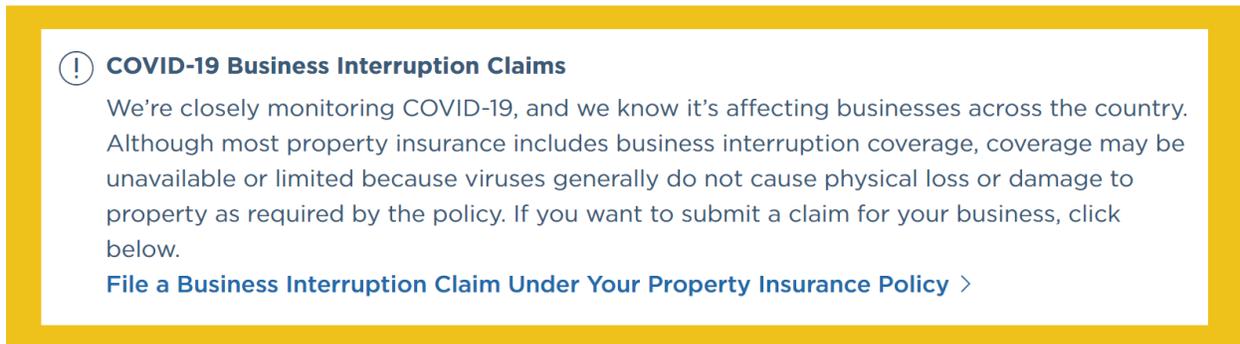
(b) That a part or all of the ‘scheduled premises’ is rendered untenable as a result of a Covered Cause of Loss.

Ex. A at 38.

70. Plaintiff and Class Members are entitled to coverage under the above provisions.

71. However, Defendants deny that the COVID-19 pandemic is a covered cause of loss and refuse to provide any coverage whatsoever.

72. Defendants state the basis of their denial of coverage in a large bordered box on their web site, reproduced in the screenshot below:⁴⁶



73. This explanation is a sham because Defendants have blatantly misparaphrased the language of the policy to create the impression that the loss must be “to” the property. As quoted above, the policy covers “direct physical loss *of* or physical damage to Covered Property”

⁴⁶ <https://www.thehartford.com/commercial-property-insurance/claims> (accessed 5/13/2020) (emphasis added).

Ex. A at 28 (emphasis added). The loss of the property occurred because Plaintiff and his patients physically lost the property for purposes of Plaintiff's business, dental treatment.

74. Furthermore, Defendants know that viruses can cause physical loss or damage to property under the policy. For that reason, the policy includes a *virus exclusion*, which excludes some coverages resulting from viruses. That exclusion, which was added to the policy in or about 2006, appears on a page headed with this statement: "THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY." Ex. A at 135.

75. The virus exclusion states:

i. "Fungi", Wet Rot, Dry Rot, Bacteria And Virus

We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

- (1) Presence, growth, proliferation, spread or any activity of 'fungi', wet rot, dry rot, bacteria or *virus*.

Ex. A at 135.

76. If a virus, even one that was present or active in the property, does not cause physical loss or damage to the property, there would have been absolutely no reason for Defendants to change the policy by excluding viruses under certain conditions or to state in the policy that the provision changes the policy. The fact that Defendants felt the need to include an exclusion for viruses shows that Defendants know that viruses most certainly *can* cause loss or damage to the property.

77. However, the virus exclusion does not apply to Plaintiff's loss (and notably Defendants did not offer it on their website as a reason for refusing coverage for losses due to the COVID-19 pandemic). Plaintiff's loss was not caused by the presence of viruses in his premises. There is no evidence that the virus has ever been in his premises. Plaintiff's loss was caused by the

worldwide pandemic and, as recommended by the CDC and dental organizations, the need to prevent it from spreading to his employees, his patients and others.

78. In or about May 2020, Plaintiff submitted a formal claim for coverage of his losses to The Hartford, which rejected the claim by letter dated June 3, 2020, signed by Gregory Waller (Exhibit B hereto), along with a four-page attachment, explaining the basis of its decision (“the Explanation”).

79. The Explanation states that The Hartford based its decision on the language of the policy that states, in part, “We will pay for direct physical *loss of* or physical damage to Covered Property” Explanation at 1 (emphasis added).

80. However, although The Hartford quoted the policy accurately, it then mis-paraphrased it by stating, “You have not identified any direct physical loss to any property at a scheduled premises.” The policy covers a loss “of” the property, not *to* the property. What it covers that happens “to” the property is damage. As described above, there was a necessary suspension of Plaintiff’s operations caused by a loss “of” the property resulting from a Covered Cause of Loss—namely the worldwide pandemic.

81. The Explanation also speculates that “even if coverage were otherwise available for loss caused by coronavirus, the pollution exclusion *could* further bar coverage for the loss.” *Id.* at 3 (emphasis added). This was not a ground for rejection of the claim.

82. The Explanation further states that “[t]o the extent you are claiming physical loss or physical damage caused by loss of use or loss of market, coverage would be precluded” *Id.* at 3. The Explanation does not explain what is meant by “loss of market,” which is not a defined term in the policy. Furthermore, this was not an explanation it offered in its SEC filings, which was limited to its contention regarding the “loss of or damage to” coverage.

83. As a last purported basis, The Explanation refers to the policy's virus exclusion. As described above, that purported basis is left out of the explanation The Hartford makes public on its website for why COVID-19 business losses are not covered.

84. Furthermore, the Virus Exclusion does not exclude Plaintiff's losses due to the COVID-19 pandemic because – as detailed above – those losses were not caused by the virus; they were caused by the COVID-19 pandemic, rather than the presence of coronavirus on the property of Plaintiff or the members of the Class. If The Hartford had intended to exclude losses that might be related to a pandemic or viruses in another location, it could have so provided but did not.

V. CLASS ALLEGATIONS

85. Plaintiff brings this action on behalf of himself and as a representative of all others who are similarly situated. Pursuant to Rules 23(a), (b)(2), and/or (b)(3) of the Federal Rules of Civil Procedure, Plaintiff seeks certification of the following classes:

a. All persons and entities operating dental practices in Illinois with Business Income (including Extended Business Income) coverage issued by Defendants that made claims with either Defendant for suspension (*i.e.*, the partial slowdown or complete cessation of their business activities) of business related to COVID-19, and for which Defendants have denied a claim for the losses or has otherwise failed to acknowledge or accept as a covered loss, or pay for the covered losses (the "Business Income Coverage Class").

b. All persons and entities operating dental practices in Illinois with Extra Expense coverage issued by Defendants that made claims with either Defendant for Extra Expense Coverage related to COVID-19 and for which Defendants have denied a claim for the expenses or have otherwise failed to acknowledge or accept as a covered expense, or pay for the covered expenses (the "Extra Expense Coverage Class").

86. Excluded from each of the above Classes are Defendants, including any entity in which Defendants have a controlling interest, is a parent or subsidiary, or which is controlled by Defendants, as well as the officers, directors, affiliates, legal representatives, predecessors,

successors, and assigns of Defendants. Also excluded are the judges and court personnel in this case and any members of their immediate families.

87. Plaintiff reserves the right to amend or modify the Class definitions with greater specificity or division into subclasses after having had an opportunity to conduct discovery.

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

89. **Numerosity.** Fed. R. Civ. P. 23(a)(1). The members of each Class are so numerous that joinder of all members is impractical. The precise number of Class members can be ascertained from Defendants' records.

90. **Commonality and Predominance.** Fed. R. Civ. P. 23(a)(2) and (b)(3). There are questions of law and fact common to each Class, which predominate over any questions affecting individual members of each respective Class. These common questions of law and fact include, without limitation:

- a. Whether Plaintiff and the Class members suffered a covered loss under the common policies issued to members of the Class;
- b. Whether Defendants wrongfully denied all claims based on COVID-19;
- c. Whether Defendants' Business Income coverage applies to a suspension of business caused by COVID-19 and/or in response to the presence or threat of COVID-19;
- d. Whether Defendants' Extra Expense coverage applies to efforts to avoid or minimize a loss caused by COVID-19;
- e. Whether Defendants have breached their contracts of insurance through a uniform and blanket denial of all claims for business losses and extra expense related to COVID-19;
- f. Whether Defendants' conduct has been vexatious and unreasonable.
- g. Whether Plaintiff and the Class members suffered damages as a result of Defendants' actions.

91. **Typicality.** Fed. R. Civ. P. 23 (a)(3). Plaintiff's claims are typical of the claims of the Class he seeks to represent. Plaintiff and all Class members were exposed to uniform practices and sustained injuries arising out of and caused by Defendants' unlawful conduct.

92. **Adequacy.** Fed. R. Civ. P. 23(a)(4). Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel experienced in the prosecution of class actions. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Classes.

93. **Superiority.** Fed. R. Civ. P. 23(b)(3). A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation, and due to the financial resources of Defendants, no Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, Class members will continue to suffer losses and Defendants' misconduct will proceed without remedy. Even if Class members themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard that might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court. Finally, Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action.

94. **Injunctive and Declaratory Relief.** Fed. R. Civ. P. 23(b)(2). Defendants' unlawful and unfair conduct is uniform as to all members of each Class. Defendants have acted or refused to

act on grounds that apply generally to each Class, so that final injunctive relief or declaratory relief is appropriate with respect to each Class as a whole.

VI. JURY DEMAND

95. Plaintiff demands trial by jury on all claims so triable.

COUNT I: Business Income Breach Of Contract (By Plaintiff and the Business Income Coverage Class)

96. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this Complaint, as though fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

97. Plaintiff brings this claim individually and on behalf of the Business Income Coverage Class against Defendants under Illinois law.

98. Plaintiff's Policy and the policies of other Business Income Coverage Class members are insurance contracts under which Defendants were paid premiums in exchange for promises to pay Plaintiff for his covered losses under the Policy and for Class members' covered losses.

99. In Plaintiff's policy, Defendants expressly agree to pay for losses of Business Income incurred as a result of causes not excluded, including losses caused by the COVID-19 pandemic. Specifically, Defendants promise to pay for losses of Business Income (including Extended Business Income) sustained as a result of a business suspension.

100. A covered loss has resulted in business suspensions, which have caused Plaintiff and Class members lost Business Income and Extended Business Income.

101. The business suspensions and losses triggered the Business Income and Extended Business Income coverage under Plaintiff's policy and other Class members' policies.

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

103. Defendants, without justification, have refused performance under Plaintiff's policy and other Class members' policies by denying coverage for these losses. Accordingly, Defendants are in breach of the policy and other Class members' policies.

104. Due to Defendants' breach of the policy and other Class members' policies, Plaintiff and other members of the Business Income Coverage Class have suffered actual and substantial damages for which Defendants are liable, in an amount to be proved at trial.

**COUNT II: Damages Pursuant to 215 ILCS 5/155
(By Plaintiff and the Business Income Coverage Class)**

105. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this Complaint, as though fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

106. Plaintiff brings this claim individually and on behalf of the Business Income Coverage Class against Defendants under Illinois law.

107. Pursuant to Section 155 of the Illinois Insurance Code, 215 ILCS 5/155, in an action against an insurance company over coverage of insurance policies or amounts payable thereunder, the insured is entitled to recover costs, attorneys' fees, and an additional allowance specified by statute if the action or delay on the part of the insurance company is vexatious and unreasonable.

108. As set forth above, Defendants' actions and delay in denying Plaintiff and the Business Income Coverage Class coverage under the applicable policy has been vexatious and unreasonable, in one or more of the following respects:

- a. By failing to provide insurance coverage at the time Defendants' knew or reasonably should have known Plaintiff and the Class were entitled to such insurance coverage;
- b. By failing to objectively evaluate the claim of Plaintiff and the Class;

- c. By interpreting the provisions of the insurance policy in an unreasonable manner;
- d. By interpreting the factual circumstances in an unreasonable manner;
- e. By interpreting the policy provisions and factual circumstances so as to resolve ambiguities and uncertainties against Plaintiff and the Class and in favor of their own interest;
- f. By misrepresenting policy provisions;
- g. By failing to provide a reasonable explanation of the basis for denial of coverage for Plaintiff and the Class' claims;
- h. By unreasonably failing to conduct a prompt, fair, balanced and thorough investigation of all of the bases of Plaintiff and the Class' claims;
- i. By unreasonably engaging in a pattern and practice of failing to conduct a prompt, fair, balanced and thorough investigation of all of the bases of claims made under Plaintiff and the Class' policies;
- j. By unreasonably failing to diligently search for and consider evidence that supports coverage of Plaintiff's and the Class' claims;
- k. By unreasonably engaging in a pattern and practice of failing to diligently search for and consider evidence that supports coverage of Plaintiff's and the Class' claims;
- l. By unreasonably failing to conduct an investigation to determine the efficient proximate cause (predominant cause) of Plaintiff's and the Class' losses;
- m. By unreasonably engaging in a pattern and practice of failing to conduct an investigation to determine the efficient proximate cause (predominant cause) on claims made by insureds;
- n. By unreasonably failing to give at least as much consideration to the interests of Plaintiff and the Class as they give to their own interests; and/or
- o. By forcing Plaintiff and the Class to file suit to obtain the benefits under the policy.

109. As a result of Defendants' vexatious and unreasonable conduct, Plaintiff and the Business Income Coverage Class are entitled to the relief provided in Section 155 of the Illinois Insurance Code, including penalties, reasonable attorneys' fees, and costs, and for such further relief as the Court deems just and proper.

**COUNT III: Declaratory Relief Applicable to Business Income
(By Plaintiff and the Business Income Coverage Class)**

110. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this Complaint, as though fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

111. Plaintiff brings this claim individually and on behalf of the Business Income Coverage Class against Defendants under Illinois law.

112. This Court has jurisdiction to declare the rights and other legal relations pursuant to 28 U.S.C. §§ 2201-2202.

113. Plaintiff's Policy and the policies of other Business Income Coverage Class members are insurance contracts under which Defendants were paid premiums in exchange for promises to pay Class members' losses for claims covered by the policy.

114. In the Policy, Defendants expressly agreed to pay for loss of Business Income and Extended Business Income incurred as a result of the causes not excluded under the policy. Specifically, Defendants promised to pay for losses of business income sustained as a result of a business suspension.

115. A covered loss has resulted in business suspensions, which have caused Plaintiff and Class members losses.

116. The business suspensions and losses triggered the Business Income and Extended Business Income coverage under the policy and other Class members' policies.

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

118. Defendants, without justification, have refused performance under the policy and other Class members' policies by denying coverage for these losses and expenses. Accordingly, Defendants are in breach of the policy and other Class members' policies.

119. Plaintiff and the Class members seek a judicial determination of whether the policies provide coverage for Plaintiff's and Class members' losses.

120. An actual case or controversy exists regarding Class members' rights and Defendants' obligations under the terms of the Class members' policies.

**COUNT IV: Extra Expense Breach of Contract
(By Plaintiff and the Extra Expense Coverage Class)**

121. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this Complaint, as though fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

122. Plaintiff brings this claim individually and on behalf of the Extra Expense Coverage Class against Defendants under Illinois law.

123. Plaintiff's policy and the policies of other Extra Expense Coverage Class members are insurance contracts under which Defendants were paid premiums in exchange for promises to pay Class members' losses for claims covered by the Policy.

124. In Plaintiff's policy and the policies of other Extra Expense Coverage Class members, Defendants expressly agree to pay for extra expenses incurred as a result of the causes not excluded under the policies. Specifically, Defendants promise to pay amounts to avoid or minimize the losses from suspension of business and to continue 'operations' at Plaintiff's and Class members' premises, to repair or replace any property, and other expenses.

125. A covered loss has resulted in a business suspension. These suspensions have caused Plaintiff and Class members to incur extra expenses.

126. The extra expenses triggered the extra expense coverage under Plaintiff's policy and other Class members' policies.

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

128. Defendants, without justification, have refused performance under the policy and other Class members' policies by denying coverage for these losses and expenses. Accordingly, Defendants are in breach of the policy and other Class members' policies.

129. Due to Defendants' breach of the policy and other Class member policies, Plaintiff and other Class members have suffered actual and substantial damages for which Defendants are liable, in an amount to be proved at trial.

**COUNT V: Damages Pursuant to 215 ILCS 5/155
(By Plaintiff and the Extra Expense Coverage Class)**

130. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this Complaint, as though fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

131. Plaintiff brings this claim individually and on behalf of the Extra Expense Coverage Class against Defendants under Illinois law.

132. Pursuant to Section 155 of the Illinois Insurance Code, 215 ILCS 5/155, in an action against an insurance company over coverage of insurance policies or amounts payable thereunder, the insured is entitled to recover costs, attorneys' fees, and an additional allowance specified by statute if the action or delay on the part of the insurance company is vexatious and unreasonable.

133. As set forth above, Defendants' actions and delay in denying Plaintiff and the Extra Expense Class coverage under the applicable policy has been vexatious and unreasonable, in one or more of the following respects:

- a. By failing to provide insurance coverage at the time Defendants' knew or reasonably should have known Plaintiff and the Class were entitled to such insurance coverage;
- b. By failing to objectively evaluate the claim of Plaintiff and the Class;
- c. By interpreting the provisions of the insurance policy in an unreasonable manner;
- d. By interpreting the factual circumstances in an unreasonable manner;
- e. By interpreting the policy provisions and factual circumstances so as to resolve ambiguities and uncertainties against Plaintiff and the Class and in favor of their own interest;
- f. By misrepresenting policy provisions;
- g. By failing to provide a reasonable explanation of the basis for denial of coverage for Plaintiff and the Class' claims;
- h. By unreasonably failing to conduct a prompt, fair, balanced and thorough investigation of all of the bases of Plaintiff and the Class' claims;
- i. By unreasonably engaging in a pattern and practice of failing to conduct a prompt, fair, balanced and thorough investigation of all of the bases of claims made under Plaintiff and the Class' policies;
- j. By unreasonably failing to diligently search for and consider evidence that supports coverage of Plaintiff's and the Class' claims;
- k. By unreasonably engaging in a pattern and practice of failing to diligently search for and consider evidence that supports coverage of Plaintiff's and the Class' claims;
- l. By unreasonably failing to conduct an investigation to determine the efficient proximate cause (predominant cause) of Plaintiff's and the Class' losses;
- m. By unreasonably engaging in a pattern and practice of failing to conduct an investigation to determine the efficient proximate cause (predominant cause) on claims made by insureds;
- n. By unreasonably failing to give at least as much consideration to the interests of Plaintiff and the Class as they give to their own interests; and/or

- o. By forcing Plaintiff and the Class to file suit to obtain the benefits under the policy.

134. As a result of Defendants' vexatious and unreasonable conduct, Plaintiff and the Extra Expense Coverage Class are entitled to the relief provided in Section 155 of the Illinois Insurance Code, including penalties, reasonable attorneys' fees, and costs, and for such further relief as the Court deems just and proper.

**COUNT VI: Declaratory Relief Applicable to Extra Expense
(By Plaintiff and the Extra Expense Coverage Class)**

135. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this Complaint, as though fully set forth herein and, to the extent necessary, pleads this cause of action in the alternative.

136. Plaintiff brings this claim individually and on behalf of the Extra Expense Coverage Class against Defendants under Illinois law.

137. This Court has jurisdiction to declare the rights and other legal relations pursuant to 28 U.S.C. §§ 2201-2202.

138. Plaintiff's policy and the policies of other Extra Expense Coverage Class members are insurance contracts under which Defendants were paid premiums in exchange for promises to pay Class members' losses for claims covered by the policies.

139. In Plaintiff's policy and the policies of other Extra Expense Coverage Class members, Defendants expressly agree to pay extra expenses incurred as a result of the causes not excluded under the policies. Specifically, Defendants promise to pay amounts to avoid or minimize the losses from suspension of business and to continue "operations" at Plaintiff's and Class members' premises, to repair or replace any property, and other expenses.

140. The COVID-19 pandemic has caused Plaintiff and the Extra Expense Coverage Class covered losses.

141. These covered losses have resulted, and will result, in extra expenses, which have caused Plaintiff's and Class members losses.

142. The extra expenses triggered the Extra Expense coverage under Plaintiff's policy and other Class members' policies.

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

144. Defendants, without justification, have refused performance under Plaintiff's policy and other Class members' policies by denying coverage for these losses and expenses. Accordingly, Defendants are in breach of Plaintiff's policy and other Class members' policies.

145. Plaintiff and the Class members seek a judicial determination of whether the Extra Expense provisions of the policies provide coverage for Plaintiff's and Class members' losses.

146. An actual case or controversy exists regarding Extra Expense Coverage Class members' rights and Defendants' obligations under the terms of the Extra Expense provisions of Plaintiff's policy and other Class members' policies.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully requests that the Court enter judgment against Defendants, as follows:

1. An order certifying appropriate classes and/or subclasses, designating Plaintiff as the class representative and his counsel as class counsel;
2. A judicial declaration declaring the meaning of the provisions concerning the business income coverage and extra expense coverage;
3. An award of damages to Plaintiff and the Classes in an amount to be determined at trial;
4. An order requiring Defendants to pay both pre- and post-judgment interest on any amounts awarded, as allowed by law;

5. An award of costs and attorneys' fees, as allowed by law;
6. An award for amounts provided by 215 ILCS 5/155; and
6. Such other or further relief as may be appropriate.

Dated: June 15, 2020

Respectfully submitted,

GOLDENBERG HELLER & ANTOGNOLI, P.C.

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