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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JENNIFER B. NGUYEN,

Plaintiff,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA,

Defendants.

No.

COMPLAINT—CLASS ACTION

JURY DEMAND

I. INTRODUCTION

Plaintiff, Jennifer B. Nguyen, DDS, PLLC, individually and on behalf of all others similarly situated members of the defined national claims (the “Class Members”), by and through the undersigned attorneys, brings this class action against Travelers Casualty Insurance of America (“Defendant” or “Travelers”) and alleges as follows based on personal knowledge and information and belief:

II. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because at least one Class member is of diverse citizenship from Defendant, there are 100 or more Class members nationwide, and the aggregate amount in

1 controversy exceeds \$5,000,000. The Court has supplemental jurisdiction over Plaintiffs' state
2 law claims under 28 U.S.C. § 1367.

3 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(3) because the
4 Court has personal jurisdiction over Defendant, a substantial portion the alleged wrongdoing
5 occurred in this District and the state of Washington, and Defendant has sufficient contacts with
6 this District and the state of Washington.

7
8 3. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.
9 §1391(b)(2) because a substantial part of the events or omissions giving rise to the claims at
10 issue in this Complaint arose in this District. Plaintiff's place of business is located in Seattle,
11 WA, King County. This action is therefore appropriately filed in the Seattle Division because a
12 substantial portion of the events giving rise to this lawsuit arose in King County.

13 **III. PARTIES**

14 4. Plaintiff Jennifer B. Nguyen, DDS, PLLC, DBA Seattle Smiles Dental, owns and
15 operates a dentistry practice located at 1325 4th Avenue, Suites 1230 and 1202, Seattle,
16 Washington, 98101.

17
18 5. Defendant Travelers Casualty Insurance Company of America, is an insurance
19 carrier incorporated and domiciled in the State of Connecticut, with its principal place of
20 business in Connecticut.

21 **IV. NATURE OF THE CASE**

22 6. Due to COVID-19 and a state-ordered mandated closure, Plaintiff cannot provide
23 dentistry services. Plaintiff intended to rely on her business insurance to keep her business alive.
24 This lawsuit is filed to ensure that Plaintiff and other similarly-situated policyholders receive the
25 insurance benefits to which they are entitled and for which they paid.
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1 7. Defendant Travelers Casualty Insurance Company of America (Travelers) issued
2 one or more insurance policies to Plaintiff, including Businessowners Property Coverage and
3 related endorsements, insuring Plaintiff's property and business practice and other coverages,
4 with effective dates of November 1, 2019 to November 1, 2020.

5 8. Plaintiff's business property includes property owned and leased by Plaintiff and
6 used for general business purposes for the specific purpose of dentistry and other business
7 activities.
8

9 9. Travelers' Businessowners Property Coverage promises to pay Plaintiff for risks
10 of "DIRECT PHYSICAL LOSS" to covered property and includes coverage for risks of both
11 "loss of or damage to" covered property.
12

13 10. Travelers' Businessowners Property Coverage provides Plaintiff with Business
14 Income Coverage, Extra Expense Coverage, Extended Business Income Coverage and Civil
15 Authority Coverage.

16 11. Plaintiff paid all premiums for the coverage when due.

17 12. On or about January 2020, the United States of America saw its first cases of
18 persons infected by COVID-19, which has been designated a worldwide pandemic.

19 13. In light of this pandemic, Washington Governor Jay Inslee issued certain
20 proclamations and orders affecting many persons and businesses in Washington, whether
21 infected with COVID-19 or not, requiring certain public health precautions. Among other things,
22 Governor Inslee's "Stay Home, Stay Healthy" order required the closure of all non-essential
23 businesses, including Plaintiff's dental practice.
24

25 14. Plaintiff's property sustained direct physical loss or damage to as a result of the
26 proclamations and orders.

1 15. Plaintiff's property will continue to sustain direct physical loss or damage covered
2 by the Traveler's policy or policies, including but not limited to business interruption, extra
3 expense, interruption by civil authority, and other expenses.

4 16. Plaintiff's property cannot be used for its intended purposes.

5 17. As a result of the above, Plaintiff has experienced and will experience loss
6 covered by the Travelers policy or policies.

7 18. Plaintiff contacted Defendant Travelers about her losses but was verbally told by
8 telephone that her losses would not be covered under her Travelers Businessowners' Policy.

9
10 **V. CLASS ACTION ALLEGATIONS**

11 19. This matter is brought by Plaintiff Nguyen on behalf of herself and those similarly
12 situated, under Federal Rules of Civil Procedure 23(b)(1), 23(b)(2), and 23(b)(3).

13 20. The Classes that Plaintiff Nguyen seek to represent are defined at this time as:

14 A. ***Business Income Coverage Breach of Contract Class:*** All persons and
15 entities in the United States insured under a Travelers policy with Business Income
16 Coverage who suffered a suspension of their business at the covered premises due to
17 COVID-19 and whose Business Income claim was denied by Travelers.

18 B. ***Business Income Coverage Declaratory Relief Class:*** All persons and
19 entities in the United States insured under a Travelers policy with Business Income
20 Coverage who suffered a suspension of their business at the covered premises due to
21 COVID-19.

22 C. ***Extra Expense Breach of Contract Class:*** All persons and entities in the
23 United States insured under a Travelers policy with Extra Expense coverage who sought
24 to minimize the suspension of business at the covered premises in connection with
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1 COVID-19 and whose Extra Expense coverage claim was denied by Travelers despite
2 their efforts to minimize the suspension of their business.

3 D. ***Extra Expense Declaratory Relief Class:*** All persons and entities in the
4 United States insured under a Travelers policy with Extra Expense coverage who sought
5 to minimize losses from the suspension of their business at the covered premises due to
6 COVID-19.

7
8 E. ***Extended Business Income Breach of Contract Class:*** All persons and
9 entities in the United States insured under a Travelers policy with Extended Business
10 Income coverage who suffered a suspension of their business at the covered premises due
11 to COVID-19.

12
13 F. ***Extended Business Income Declaratory Relief Class:*** All persons and
14 entities in the United States insured under a Travelers policy with Extended Business
15 Income coverage who suffered a suspension of their business at the covered premises due
16 to COVID-19.

17 G. ***Civil Authority Breach of Contract Class:*** All persons and entities in the
18 United States insured under a Travelers policy with Civil Authority coverage who
19 suffered a loss of business income and/or extra expense due to the impact of COVID-19
20 and whose Civil Authority claim was denied by Travelers.

21
22 H. ***Civil Authority Declaratory Relief Class:*** All persons and entities in the
23 United States insured under a Travelers policy with Civil Authority coverage who
24 suffered a loss of business income and/or extra expense due to the impact of COVID-19.

25 21. Excluded from the Class are Defendant's officers, directors, and employees; the
26 judicial officers and associated court staff assigned to this case; and the immediate family

1 members of such officers and staff. Plaintiff Nguyen reserves the right to amend the Class
2 definition based on information obtained in discovery.

3 22. This action may properly be maintained on behalf of each proposed Class under
4 the criteria of Rule 23 of the Federal Rules of Civil Procedure.

5 23. **Numerosity:** The members of the Class are so numerous that joinder of all
6 members would be impractical. Plaintiff is informed and believes that the proposed Class
7 contains thousands of members. The precise number of class members can be ascertained
8 through discovery, which will include Defendant's records of policyholders.

9 24. **Commonality and Predominance:** Common questions of law and fact
10 predominate over any questions affecting only individual members of the Class. Common
11 questions include, but are not limited to, the following:
12

13 A. Whether the class members suffered covered losses based on common
14 policies issued to members of the Class;

15 B. Whether Travelers acted in a manner common to the class and wrongfully
16 denied claims for coverage arising from COVID-19 and/or closure orders issued by
17 Governor Inslee and others civil authorities;

18 C. Whether Business Income coverage in Travelers' policies of insurance
19 applies to a suspension of business related to COVID-19 and/or closure orders issued by
20 Governor Inslee and others civil authorities;

21 D. Whether Travelers' Extra Expense coverage applies to efforts to minimize
22 a loss related to COVID-19 and/or closure orders issued by Governor Inslee and others
23 civil authorities;
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1 E. Whether Travelers' Extended Business Income coverage applies to a
2 suspension of business related to COVID-19 and/or closure orders issued by Governor
3 Inslee and others civil authorities;

4 F. Whether Travelers' Civil Authority Coverage applies to a suspension of
5 business due to the impact of COVID-19 and/or closure orders issued by Governor Inslee
6 and others civil authorities;

7 G. Whether Travelers has breached its contracts of insurance through a
8 blanket denial of all claims based on business interruption, business income loss or
9 closures related to COVID-19 and/or closure orders issued by Governor Inslee and others
10 civil authorities;

11 H. Whether, because of Defendant's conduct, Plaintiff Nguyen and the class
12 members have suffered damages; and if so, the appropriate amount thereof; and
13

14 I. Whether, because of Defendant's conduct, Plaintiff Nguyen and the class
15 members are entitled to equitable and declaratory relief, and if so, the nature of such
16 relief.
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18 25. **Typicality:** Plaintiff Nguyen's claims are typical of the claims of the members of
19 the classes. Plaintiff Nguyen and all the members of the classes have been injured by the same
20 wrongful practices of Defendant. Plaintiff Nguyen's claims arise from the same practices and
21 course of conduct that give rise to the claims of the members of the Class and are based on the
22 same legal theories.

23
24 26. **Adequacy:** Plaintiff Nguyen will fully and adequately assert and protect the
25 interests of the classes and has retained class counsel who are experienced and qualified in
26

1 prosecuting class actions. Neither Plaintiff Nguyen nor her attorneys have any interests contrary
2 to or in conflict with the Class.

3 27. **Federal Rule of Civil Procedure 23(b)(1), the Risk of Inconsistent or Varying**
4 **Adjudications and Impairment to Other Class Members' Interests:** Plaintiff seeks
5 adjudication as to the interpretation, and resultant scope, of Defendant's policies, which are
6 common to all members of the class. The prosecution of separate actions by individual members
7 of the classes would risk of inconsistent or varying interpretations of those policy terms and
8 create inconsistent standards of conduct for Defendant. The policy interpretations sought by
9 Plaintiff could also impair the ability of absent class members to protect their interests.
10

11 28. **Federal Rule of Civil Procedure 23(b)(2), Declaratory and Injunctive Relief:**
12 Defendant acted or refused to act on grounds generally applicable to Plaintiff and other members
13 of the proposed classes making injunctive relief and declaratory relief appropriate on a classwide
14 basis.
15

16 29. **Federal Rule of Civil Procedure 23(b)(3), Superiority:** A class action is
17 superior to all other available methods of the fair and efficient adjudication of this lawsuit. While
18 the aggregate damages sustained by the classes are likely to be in the millions of dollars, the
19 individual damages incurred by each class member may be too small to warrant the expense of
20 individual suits. Individual litigation creates a risk of inconsistent and/or contradictory decisions
21 and the court system would be unduly burdened by individual litigation of such cases. A class
22 action would result in a unified adjudication, with the benefits of economies of scale and
23 supervision by a single court.
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1 VI. CAUSES OF ACTION

2 **Count One—Declaratory Judgment**

3 *(Brought on behalf of the Business Income Coverage Declaratory Relief Class,*
4 *Extended Business Income Declaratory Relief Class, Civil Authority Declaratory Relief Class,*
5 *and Extra Expense Declaratory Relief Class)*

6 30. Previous paragraphs alleged are incorporated herein.

7 31. This is a cause of action for declaratory judgment pursuant to the Declaratory
8 Judgment Act, codified at 28 U.S.C. § 2201.

9 32. Plaintiff Nguyen brings this cause of action on behalf of the Business Income
10 Coverage Declaratory Relief Class, Extended Business Income Declaratory Relief Class, Civil
11 Authority Declaratory Relief Class, and Extra Expense Declaratory Relief Class.

12 33. Plaintiff Nguyen seeks a declaratory judgment declaring that Plaintiff Nguyen's
13 and class members losses and expenses resulting from the interruption of their business are
14 covered by the Policy.

15 34. Plaintiff Nguyen seeks a declaratory judgment declaring that Travelers is
16 responsible for timely and fully paying all such losses.

17 **Count Two—Breach of Contract**

18 *(Brought on behalf of the Business Income Coverage Breach of Contract Class,*
19 *Extended Business Income Breach of Contract Class, Civil Authority Breach of Contract*
20 *Class, and Extra Expense Breach of Contract Class)*

21 35. Previous paragraphs alleged are incorporated herein.

22 36. Plaintiff Nguyen brings this cause of action on behalf of the Business Income
23 Coverage Breach of Contract Class, Extended Business Income Breach of Contract Class, Civil
24 Authority Breach of Contract Class, and Extra Expense Breach of Contract Class.
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1 37. The Policy is a contract under which Plaintiff Nguyen and the class paid
2 premiums to Travelers in exchange for Travelers's promise to pay Plaintiff Nguyen and the class
3 for all claims covered by the Policy.

4 38. Plaintiff Nguyen has paid its insurance premiums.

5 39. Plaintiff Nguyen will soon file a written claim for her loss covered by the Policy.
6
7 Upon information and belief, Travelers has denied coverage for other similarly situated
8 policyholders and will again deny Plaintiff Nguyen's claim.

9 40. Denying coverage for the claim is a breach of the insurance contract.

10 41. Plaintiff Nguyen is harmed by the breach of the insurance contract by Travelers.

11 **VII. PRAYER FOR RELIEF**

12 1. A declaratory judgment that the policy or policies cover the plaintiff's losses and
13 expenses resulting from the interruption of the plaintiff's business by COVID-19.

14 2. A declaratory judgment that the defendant is responsible for timely and fully
15 paying all such losses.

16 3. Damages.

17 4. Pre-judgment interest.

18 5. Reasonable attorney fees and costs.

19 6. Such further and other relief as the Court shall deem appropriate.
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22 **VIII. DEMAND FOR JURY**

23 Plaintiff Nguyen demands a jury trial on all claims so triable.
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DATED this 21st day of April, 2020.

KELLER ROHRBACK L.L.P.

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