

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PACIFIC ENDODONTICS, P.S., individually
and on behalf of all others similarly situated,

Plaintiff,

v.

THE OHIO CASUALTY INSURANCE
COMPANY,

Defendant.

No.

COMPLAINT - CLASS ACTION

JURY DEMAND

I. INTRODUCTION

Plaintiff, PACIFIC ENDODONTICS, P.S. (“Pacific”), individually and on behalf of all other similarly situated members of the defined national class (the “Class Members”), by and through the undersigned attorneys, brings this class action against Defendant The Ohio Casualty Insurance Company (“OCIC” or “Defendant”) 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

1 from Defendant, there are 100 or more Class members nationwide, and the aggregate amount in
2 controversy exceeds \$5,000,000. The Court has supplemental jurisdiction over Plaintiffs' state
3 law claims under 28 U.S.C. § 1367.

4 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(3) because the
5 Court has personal jurisdiction over Defendant, a substantial portion the alleged wrongdoing
6 occurred in this District and the state of Washington, and Defendant has sufficient contacts with
7 this District and the state of Washington.
8

9 3. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.
10 § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims at
11 issue in this Complaint arose in this District. Plaintiff's businesses are located in Seattle, King
12 County. This action is therefore appropriately filed in the Seattle Division because a substantial
13 portion of the events giving rise to this lawsuit arose in King County.
14

15 **III. PARTIES**

16 4. Plaintiff, Pacific Endodontics, P.S. is a dentistry endodontics business with
17 locations at 1229 Madison Street, Ste 1140, Seattle, Washington and 2743 California Avenue
18 SW, Ste 300, Seattle, Washington.

19 5. Defendant OCIC is an insurance carrier incorporated and domiciled in the State
20 of New Hampshire, with its principal place of business in the Commonwealth of Massachusetts,
21 and is a subsidiary of Liberty Mutual Insurance ("Liberty Mutual").
22

23 **IV. NATURE OF THE CASE**

24 6. Due to COVID-19 and a state-ordered mandated closure, Plaintiff cannot provide
25 dental endodontist services. Plaintiff intended to rely on its business insurance to keep its
26 business as a going concern. This lawsuit is filed to ensure that Plaintiff and other similarly-

1 situated policyholders receive the insurance benefits to which they are entitled and for which
2 they paid.

3 7. Defendant OCIC issued one or more insurance policies to Plaintiff, including
4 Business Owners Coverage and related endorsements, insuring Plaintiff's property and business
5 practice and other coverages, with effective dates of June 21, 2019 to June 21, 2020.

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

9 9. Defendant OCIC's insurance policy issued to Plaintiff promises to pay Plaintiff
10 for "DIRECT PHYSICAL LOSS" to covered property and includes coverage for risks of both
11 "loss of or damage to" covered property.

12 10. Defendant OCIC's insurance policy issued to Plaintiff includes Business Income
13 Coverage, Extended Business Income Coverage, Extra Expense Coverage and Civil Authority
14 Coverage.

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

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

18 13. In light of this pandemic, Washington Governor Jay Inslee issued certain
19 proclamations and orders affecting many persons and businesses in Washington, whether
20 infected with COVID-19 or not, requiring certain public health precautions. Among other
21 things, Governor Inslee's "Stay Home, Stay Healthy" order required the closure of all non-
22 essential businesses, including Plaintiff's business.
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1 14. By order of Governor Inslee, practitioners including Plaintiff were prohibited
2 from practicing dental endodontistry but for urgent and emergency procedures.

3 15. Plaintiff's property sustained direct physical loss and/or damage related to
4 COVID-19 and/or the proclamations and orders.

5 16. Plaintiff's property will continue to sustain direct physical loss or damage
6 covered by the OCIC policy or policies, including but not limited to business interruption, extra
7 expense, interruption by civil authority, and other expenses.

8 17. Plaintiff's property cannot be used for its intended purposes.

9 18. As a result of the above, Plaintiff has experienced and will experience loss
10 covered by the OCIC policy or policies.

11 19. Plaintiff submitted a claim to OCIC for the direct physical loss or damage to
12 Plaintiff's property covered under the OCIC policy related to COVID-19 and/or the
13 proclamations and orders; OCIC denied Plaintiff's claim for coverage.

14 20. On information and belief, OCIC has denied or will deny all similar claims for
15 coverage.
16
17

18 V. CLASS ACTION ALLEGATIONS

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

21 22. The Classes and Subclasses that Plaintiff seek to represent are defined at this
22 time as:

23 A. ***Business Income Breach of Contract Class:*** All persons and entities in
24 the United States insured under an OCIC policy with Business Income coverage who
25 suffered a suspension of their practice at the covered premises related to COVID-19
26

1 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities
2 and whose Business Income claim was denied by OCIC.

3 B. ***Business Income Coverage Breach of Contract Washington Subclass:***

4 All persons and entities in the State of Washington insured under an OCIC policy with
5 Business Income Coverage who suffered a suspension of their business at the covered
6 premises related to COVID-19 and/or orders issued by Governor Inslee, other
7 Governors, and/or other civil authorities and whose Business Income claim was denied
8 by OCIC.
9

10 C. ***Business Income Declaratory Relief Class:*** All persons and entities in
11 the United States insured under an OCIC policy with Business Income coverage who
12 suffered a suspension of their practice related to COVID-19 and/or orders issued by
13 Governor Inslee, other Governors, and/or other civil authorities at the covered premises.
14

15 D. ***Business Income Coverage Declaratory Relief Washington Subclass:***

16 All persons and entities in the State of Washington insured under an OCIC policy with
17 Business Income Coverage who suffered a suspension of their business at the covered
18 premises related to COVID-19 and/or orders issued by Governor Inslee, other
19 Governors, and/or other civil authorities.

20 E. ***Extended Business Income Breach of Contract Class:*** All persons and
21 entities in the United States insured under an OCIC policy with Extended Business
22 Income coverage who suffered a suspension of their business at the covered premises
23 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
24 other civil authorities and whose Extended Business Income claim was denied by OCIC.
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1 F. ***Extended Business Income Breach of Contract Washington Subclass:***

2 All persons and entities in the State of Washington insured under an OCIC policy with
3 Extended Business Income coverage who suffered a suspension of their business at the
4 covered premises related to COVID-19 and/or orders issued by Governor Inslee, other
5 Governors, and/or other civil authorities and whose Extended Business Income claim
6 was denied by OCIC.

7 G. ***Extended Business Income Declaratory Relief Class:*** All persons and

8 entities in the United States insured under an OCIC policy with Extended Business
9 Income coverage who suffered a suspension of their business at the covered premises
10 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
11 other civil authorities.
12

13 H. ***Extended Business Income Declaratory Relief Washington Subclass:***

14 All persons and entities in the State of Washington insured under an OCIC policy with
15 Extended Business Income coverage who suffered a suspension of their business at the
16 covered premises related to COVID-19 and/or orders issued by Governor Inslee, other
17 Governors, and/or other civil authorities.
18

19 I. ***Extra Expense Breach of Contract Class:*** All persons and entities in the

20 United States insured under an OCIC policy with Extra Expense coverage who sought to
21 minimize losses from the suspension of their business at the covered premises in
22 connection with COVID-19 and/or orders issued by Governor Inslee, other Governors,
23 and/or other civil authorities and whose Extra Expense claim was denied by OCIC.
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25 J. ***Extra Expense Breach of Contract Washington Subclass:*** All persons

26 and entities in the State of Washington insured under an OCIC policy with Extra

1 Expense coverage who sought to minimize losses from the suspension of their business
2 at the covered premises in connection with COVID-19 and/or orders issued by Governor
3 Inslee, other Governors, and/or other civil authorities and whose Extra Expense claim
4 was denied by OCIC.

5 K. ***Extra Expense Declaratory Relief Class:*** All persons and entities in the
6 United States insured under an OCIC policy with Extra Expense coverage who sought to
7 minimize losses from the suspension of their business at the covered premises in
8 connection with COVID-19 and/or orders issued by Governor Inslee, other Governors,
9 and/or other civil authorities.
10

11 L. ***Extra Expense Declaratory Relief Washington Subclass:*** All persons
12 and entities in the State of Washington insured under an OCIC policy with Extra
13 Expense coverage who sought to minimize losses from the suspension of their business
14 at the covered premises in connection with COVID-19 and/or orders issued by Governor
15 Inslee, other Governors, and/or other civil authorities.
16

17 M. ***Civil Authority Breach of Contract Class:*** All persons and entities in the
18 United States insured under an OCIC policy with Civil Authority coverage who suffered
19 a suspension of their practice and/or extra expense at the covered premises related to
20 COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or other civil
21 authorities and whose Civil Authority claim was denied by OCIC.
22

23 N. ***Civil Authority Breach of Contract Washington Subclass:*** All persons
24 and entities in the State of Washington insured under an OCIC policy with Civil
25 Authority coverage who suffered a suspension of their practice and/or extra expense at
26 the covered premises related to COVID-19 and/or orders issued by Governor Inslee,

1 other Governors, and/or other civil authorities and whose Civil Authority claim was
2 denied by OCIC.

3 O. ***Civil Authority Declaratory Relief Class:*** All persons and entities in the
4 United States insured under an OCIC policy with Civil Authority coverage who suffered
5 a suspension of their practice at the covered premises related to COVID-19 and/or orders
6 issued by Governor Inslee, other Governors, and/or other civil authorities.

7
8 P. ***Civil Authority Declaratory Relief Washington Subclass:*** All persons
9 and entities in the State of Washington insured under an OCIC policy with Civil
10 Authority coverage who suffered a suspension of their practice at the covered premises
11 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
12 other civil authorities.

13 23. Excluded from the Classes and Subclasses are Defendant's officers, directors,
14 and employees; the judicial officers and associated court staff assigned to this case; and the
15 immediate family members of such officers and staff. Plaintiff reserves the right to amend the
16 Class definition based on information obtained in discovery.

17
18 24. This action may properly be maintained on behalf of each proposed Class under
19 the criteria of Rule 23 of the Federal Rules of Civil Procedure.

20 25. **Numerosity:** The members of the Class are so numerous that joinder of all
21 members would be impractical. Plaintiff is informed and believes that the proposed Class
22 contains thousands of members. The precise number of class members can be ascertained
23 through discovery, which will include Defendant's records of policyholders.
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1 26. **Commonality and Predominance:** Common questions of law and fact
2 predominate over any questions affecting only individual members of the Class. Common
3 questions include, but are not limited to, the following:

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

6 B. Whether OCIC acted in a manner common to the class and wrongfully
7 denied claims for coverage relating to COVID-19 and/or orders issued by Governor
8 Inslee, other Governors, and/or other civil authorities;

9 C. Whether Business Income coverage in OCIC's policies of insurance
10 applies to a suspension of practice relating to COVID-19 and/or orders issued by
11 Governor Inslee, other Governors, and/or other civil authorities;

12 D. Whether Extended Business Income coverage in OCIC's policies of
13 insurance applies to a suspension of practice relating to COVID-19 and/or orders issued
14 by Governor Inslee, other Governors, and/or other civil authorities;

15 E. Whether Extra Expense coverage in OCIC's policies of insurance applies
16 to efforts to minimize a loss at the covered premises relating to COVID-19 and/or orders
17 issued by Governor Inslee, other Governors, and/or other civil authorities;

18 F. Whether Civil Authority coverage in OCIC's policies of insurance applies
19 to a suspension of practice relating to COVID-19 and/or orders issued by Governor
20 Inslee, other Governors, and/or civil authorities;

21 G. Whether OCIC has breached its contracts of insurance through a blanket
22 denial of all claims based on business interruption, income loss or closures related to
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COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities;

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

I. Whether, because of Defendant's conduct, Plaintiff and the class members are entitled to equitable and declaratory relief, and if so, the nature of such relief.

27. **Typicality:** Plaintiff's claims are typical of the claims of the members of the classes. Plaintiff and all the members of the classes have been injured by the same wrongful practices of Defendant. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the members of the Class and are based on the same legal theories.

28. **Adequacy:** Plaintiff will fully and adequately assert and protect the interests of the classes and has retained class counsel who are experienced and qualified in prosecuting class actions. Neither Plaintiff nor its attorneys have any interests contrary to or in conflict with the Class.

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

30. **Federal Rule of Civil Procedure 23(b)(2), Declaratory and Injunctive Relief:**

Defendant acted or refused to act on grounds generally applicable to Plaintiff and other members of the proposed classes making injunctive relief and declaratory relief appropriate on a classwide basis.

31. **Federal Rule of Civil Procedure 23(b)(3), Superiority:** A class action is

superior to all other available methods of the fair and efficient adjudication of this lawsuit.

While the aggregate damages sustained by the classes are likely to be in the millions of dollars, the individual damages incurred by each class member may be too small to warrant the expense

of individual suits. Individual litigation creates a risk of inconsistent and/or contradictory

decisions and the court system would be unduly burdened by individual litigation of such cases.

A class action would result in a unified adjudication, with the benefits of economies of scale and supervision by a single court.

VI. CAUSES OF ACTION

Count One—Declaratory Judgment

(Brought on behalf of the Business Income Coverage Declaratory Relief Class, Business Income Coverage Declaratory Relief Washington Subclass, Extended Business Income Declaratory Relief Class, Extended Business Income Declaratory Relief Washington Subclass, Civil Authority Declaratory Relief Class, Civil Authority Declaratory Relief Washington Subclass, Extra Expense Declaratory Relief Class, and Extra Expense Declaratory Relief Washington Subclass)

32. Previous paragraphs alleged are incorporated herein.

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

34. Plaintiff Pacific Endodontics, P.S., brings this cause of action on behalf of the Business Income Coverage Declaratory Relief Class, Business Income Coverage Declaratory Relief Washington Subclass, Extended Business Income Declaratory Relief Class, Extended

Business Income Declaratory Relief Washington Subclass, Civil Authority Declaratory Relief Class, Civil Authority Declaratory Relief Washington Subclass, Extra Expense Declaratory Relief Class, and Extra Expense Declaratory Relief Washington Subclass.

35. Plaintiff Pacific Endodontics, P.S., seeks a declaratory judgment declaring that Plaintiff Pacific Endodontics' and class members' losses and expenses resulting from the interruption of their business are covered by the Policy.

36. Plaintiff Pacific Endodontics, P.S., seeks a declaratory judgment declaring that Liberty Mutual is responsible for timely and fully paying all such claims.

Count Two—Breach of Contract

(Brought on behalf of the Business Income Coverage Breach of Contract Class, Business Income Coverage Breach of Contract Washington Subclass, Extended Business Income Breach of Contract Class, Extended Business Income Breach of Contract Washington Subclass, Civil Authority Breach of Contract Class, Civil Authority Breach of Contract Washington Subclass, Extra Expense Breach of Contract Class, and Extra Expense Breach of Contract Washington Subclass)

37. Previous paragraphs alleged are incorporated herein.

38. Plaintiff Pacific Endodontics, P.S., brings this cause of action on behalf of the Business Income Coverage Breach of Contract Class, Business Income Coverage Breach of Contract Washington Subclass, Extended Business Income Breach of Contract Class, Extended Business Income Breach of Contract Washington Subclass, Civil Authority Breach of Contract Class, Civil Authority Breach of Contract Washington Subclass, Extra Expense Breach of Contract Class, and Extra Expense Breach of Contract Washington Subclass.

39. The Policy is a contract under which Plaintiff Pacific Endodontics, P.S., and the class paid premiums to OCIC in exchange for OCIC's promise to pay Plaintiff Pacific Endodontics, P.S., and the class for all claims covered by the Policy.

40. Plaintiff Pacific Endodontics, P.S., has paid its insurance premiums.

1 41. Plaintiff submitted a claim to OCIC for the direct physical loss or damage to
2 Plaintiff's property covered under the OCIC policy related to COVID-19 and/or the
3 proclamations and orders; OCIC denied Plaintiff's claim for coverage. On information and
4 belief, OCIC has denied coverage for other similarly situated policyholders.

5 42. Denying coverage for the claim is a breach of the insurance contract.

6 43. Plaintiff Pacific Endodontics, P.S., is harmed by the breach of the insurance
7 contract by OCIC.
8

9 **VII. PRAYER FOR RELIEF**

10 1. A declaratory judgment that the policy or policies cover Plaintiff's losses and
11 expenses resulting from the interruption of the Plaintiff's business related to COVID-19 and/or
12 orders issued by Governor Inslee, other Governors, and/or other authorities.

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

15 3. Damages.

16 4. Pre- and post-judgment interest at the highest allowable rate.

17 5. Reasonable attorney fees and costs.

18 6. Such further and other relief as the Court shall deem appropriate.
19

20 **VIII. JURY TRIAL DEMANDED**

21 Plaintiff demands a jury trial on all claims so triable.

22 DATED this 23rd day of April, 2020.
23
24
25
26

KELLER ROHRBACK L.L.P.

By: s/ Ian S. Birk

By: s/ Lynn L. Sarko

By: s/ Gretchen Freeman Cappio

By: s/ Irene M. Hecht

By: s/ Amy Williams-Derry

By: s/ Maureen Falecki

Ian S. Birk, WSBA #31431

Lynn L. Sarko, WSBA #16569

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Attorneys for Plaintiff

4823-3905-4778, v. 1

for the

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

V.

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

PACIFIC ENDODONTICS PS

(b) County of Residence of First Listed Plaintiff KING
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

KELLER ROHRBACK LLP 1201 THIRD AVE STE 3200 SEATTLE 98101

DEFENDANTS

County of Residence of First Listed Defendant SUFFOLK
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. § 1391(b)(3)

Brief description of cause:
 INSURANCE BAD FAITH

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/23/2020

SIGNATURE OF ATTORNEY OF RECORD

s/lan S. Birk

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.