

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CRAB CRACKIN, INC.,

Plaintiff

vs.

SOCIETY INSURANCE, INC.

Defendant.

Case No. _____

MDL No. 2964

Honorable Edmond E. Chang

Jury Demand

COMPLAINT

NOW COMES, Plaintiff, CRAB CRACKIN, INC. (“Plaintiff”), by and through its attorneys, PHILLIPS LAW OFFICES, states as follows for its Complaint and Request for Declaratory Relief against SOCIETY INSURANCE, INC. (“Defendant”):

PARTIES

1. At all times relevant hereto, Plaintiff was a citizen of the State of Illinois, as it maintains its principal place of business in the State of Illinois.
2. At all times relevant hereto, Plaintiff operated a restaurant, known as Crab Crackin, located at or about 1336 Fox Valley Center, City of Aurora, State of Illinois (“Covered Property”).
3. At all times relevant hereto, Defendant was and is a citizen of the State of Wisconsin, as it is a business corporation incorporated under the laws of the State of Wisconsin and maintains its principal place of business in the State of Wisconsin. Defendant is an insurance company engaged in the business of selling insurance contracts to commercial entities such as Plaintiff in Illinois and elsewhere.

JURISDICTION and VENUE

4. This court has jurisdiction over the instant case pursuant to 28 U.S.C. § 1332 as the parties are completely diverse in citizenship and the amount in controversy for Plaintiff's claim exceeds \$75,000, exclusive of interest and costs.
5. This court has personal jurisdiction over the Defendant pursuant to Federal Rule of Civil Procedure 4(k) as it is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located.
6. This court has personal jurisdiction over Defendant pursuant to Illinois' long-arm statute, 735 ILCS 5/2-209, because this matter concerns: (1) one or more contracts made to insure property and/or risk in Illinois, (2) business that Defendant transacted within Illinois, and (3) one or more contracts and/or promises Defendant made that are substantially connected with Illinois. 735 ILCS 5/2-209(a)(1), (4), and (7). In addition, Defendant exercises systematic and continuous contacts with Illinois by doing business in Illinois, serving insureds in Illinois, and seeking additional business in Illinois.
7. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1391(b)(2) as it is the judicial district in which (1) a substantial part of the events or omissions giving rise to the claim occurred, and (2) the property that is the subject of the action is situated. In addition, venue is proper pursuant to the United States Judicial Panel on Multidistrict Litigation's October 2, 2020 transfer order that transferred similar cases against Society to the Northern District of Illinois.

POLICY

8. At all times relevant, Society insured Plaintiff pursuant to an insurance policy drafted and issued by Society.

9. At all times relevant, Plaintiff was insured pursuant to policy number BP18043145-2 (the “Policy”). A copy of the policy is attached hereto as Exhibit 1.
10. In exchange for substantial premiums, Society sold the Policy to Plaintiff and promised to indemnify Plaintiff for losses resulting from certain occurrences.
11. At all times material the Policy was in full force and effect and provided coverage to Plaintiff.
12. The Policy uses standard common forms that contain provisions at issue in this action.
13. The Insurance Services Office, Inc. (“ISO”) publishes policy forms for use by the insurance industry.
14. The Policy utilizes, in part, policy forms and language published by the ISO, as reflected by the ISO copyright designation at the bottom of numerous pages of the Policy.
15. Prior to the effective date of the Policy, ISO published and made available for use a standard virus exclusion form.
16. As of the date of the Policy, the ISO standard virus exclusion form and language was made available for use by insurers, including Society.
17. As of the effective date of the Policy, many insurance companies were using and continue to use the ISO standard virus exclusion form and language in policies that provide business interruption coverage.
18. Defendant Society chose not to include the ISO standard virus exclusion form in Plaintiff’s Policy.
19. Other than reference to a computer virus, the Policy includes no exclusion that references the word “virus.”

20. Plaintiff's Policy provides coverage for loss of Business Income ("BI"), Extra Expense ("EE") coverage, and coverage for loss of business income caused by contamination and publicity resulting from the suspicion of contamination.
21. The Policy provides that Society "will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss."
22. The Policy defines "Covered Causes of Loss," as "Direct Physical Loss unless the loss is excluded or limited under this coverage form."
23. None of the Policy's Limitations or Exclusions apply to the losses sustained by Plaintiff under the Policy.
24. The Policy further provides that Society 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 damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss."
25. The Policy further provides that Society will pay "for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage."
26. The Policy further provides that Society "will pay 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 damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss."

27. The Policy contains an Exclusion for loss or damage caused by “[a]cts or decisions, including the failure to act or decide, of any person, group, organization or governmental body,” unless such loss “results in a Covered Cause of Loss,” then Society “will pay for the loss or damage caused by that Covered Cause of Loss.”
28. The Policy further provides “If your “operations” are suspended due to “contamination”:
- (1) We will pay for your costs to clean and sanitize your premises, machinery and equipment, and expenses you incur to withdraw or recall products or merchandise from the market...
 - (2) We will also pay for the actual loss of Business Income and Extra Expense you sustain caused by
 - (a) “Contamination” that results in an action by a public health or other governmental authority that prohibits access to the described premises or production of your product.
 - (c) “Publicity” resulting from the discovery or suspicion of “contamination.” ”
29. The Policy defines “contamination” as “a defect, deficiency, inadequacy or dangerous condition in your product, merchandise or premises.”
30. The Policy defines “publicity” as “a publication or broadcast by the media, of the discovery or suspicion of “contamination” at a described premise.
31. The Policy includes no references to the word “pandemic.”
32. While the Policy was in force, Plaintiff sustained, and continues to sustain, losses due to the physical presence of SARS-CoV-2 particles (the virus that causes COVID-19) at, in, on, and/or around Plaintiff’s premises described in the Policy, as well as in the community.
33. While the Policy was in force, Plaintiff sustained, and continues to sustain, losses due to the physical presence of SARS-CoV-2 particles and the spread of COVID-19 in the community (the “Pandemic”).

34. While the Policy was in force, Plaintiff sustained, and continues to sustain, losses due to the executive orders issued by the Governor of Illinois and the Illinois Department of Health addressing the physical presence of and harm caused by SARS-CoV-2 particles, COVID-19 and the Pandemic.
35. Plaintiff faithfully paid policy premiums to Defendant to provide all coverage included in the Policy.

THE SARS-CoV-2 VIRUS AND THE COVID-19 PANDEMIC

36. As the Court is undoubtedly aware, SARS-CoV-2, the novel coronavirus that causes the COVID-19 disease, has caused a global pandemic.
37. COVID-19 has been declared a pandemic by the World Health Organization.
38. SARS-CoV-2 is a virus.
39. SARS-CoV-2 is a physical substance.
40. SARS-CoV-2 is a human pathogen that causes the disease COVID-19, which can be lethal.
41. SARS-CoV-2 particles can be present outside the human body in viral fluid particles.
42. SARS-CoV-2 can spread through droplets in the air when someone coughs or sneezes
43. SARS-CoV-2 can and does remain capable of being transmitted and active on inert physical surfaces for a period of time.
44. SARS-CoV-2 particles can remain suspended in the air for hours. They can also remain active on various surfaces for up to 72 hours, including on copper for up to four (4) hours, on cardboard for up to 24 hours, on plastic for two (2) to three (3) days, and on stainless steel for two (2) to three (3) days. In fact, on March 27, 2020, the CDC released a report “Public Health Responses to COVID-19 Outbreaks on Cruise Ships – Worldwide, February –March 2020,” which stated that COVID-19 was identified on a variety of

surfaces in cabins of both symptomatic and asymptomatic infected passengers up to 17 days after cabins were vacated.

45. SARS-CoV-2 can and does remain capable of being transmitted and active on floors, walls, furniture, desks, tables, chairs, countertops, touch screens, cardboard packages, food items, silverware, plates, serving trays, glasses, straws, menus, pots, pans, kitchen utensils, refrigerators, freezers, and other items of property for a period of time.
46. SARS-CoV-2 can be transmitted by way of human contact with surfaces and items of physical property on which SARS-CoV-2 particles are physically present.
47. SARS-CoV-2 has been transmitted by way of human contact with surfaces and items of physical property located at premises in Illinois.
48. SARS-CoV-2 has been transmitted by human to human contact and interaction at premises in Illinois, including places like bars and restaurants.
49. SARS-CoV-2 can be transmitted through airborne particles emitted into the air at premises.
50. SARS-CoV-2 has been transmitted by way of human contact with airborne SARS-CoV-2 particles emitted into the air at premises in Illinois.
51. The presence of any SARS-CoV-2 particles renders items of physical property unsafe.
52. The presence of any SARS-CoV-2 particles on physical property impairs its value, usefulness and/or normal function.
53. The emission or presence of SARS-CoV-2 particles in the air physically alters the molecular and structural composition of the air.
54. The presence of any SARS-CoV-2 particles causes direct physical harm to property.
55. The presence of any SARS-CoV-2 particles causes direct physical loss to property.
56. The presence of any SARS-CoV-2 particles causes direct physical damage to property.

57. The presence of any SARS-CoV-2 particles at premises renders the premises unsafe, thereby impairing the premises' value, usefulness, and/or normal function.
58. The presence of people infected with or carrying SARS-CoV-2 particles renders physical property in their vicinity unsafe and unusable, resulting in direct physical loss to that property.
59. The presence of people infected with or carrying SARS-CoV-2 particles at premises renders the premises, including property located at that premises, unsafe, resulting in direct physical loss to the premises and property.

ILLINOIS' RESPONSE TO THE PHYSICAL PRESENCE OF SARS-CoV-2 AND THE COVID-19 PANDEMIC

60. In response to the physical presence SARS-CoV-2 and the COVID-19 Pandemic, the Governor of Illinois issued multiple executive orders pursuant to the authority vested in him by the Illinois Constitution and the laws of Illinois.
61. The Illinois Department of Health, pursuant to its authority under Illinois law, has issued multiple orders, including a Stay At Home Order.
62. On March 16, 2020, in direct response to the physical presence of SARS-CoV-2 and the COVID-19 Pandemic, Illinois Governor J.B. Pritzker issued Executive Order 2020-07 stating "it is necessary and appropriate for the State of Illinois to immediately take measures to protect the public's health in response to this COVID-19 outbreak." Executive Order 2020-07 further ordered that "all businesses in the State of Illinois that offer food or beverages for on-premises consumption—including restaurants, bars, grocery stores, and food halls—must suspend services for and may not permit on-premises consumption."
63. On March 20, 2020, in response to the physical presence of SARS-CoV-2 in the community, Governor Pritzker issued Executive Order 2020-10 (a Closure Order or Stay

at Home Order) which (1) required all Illinois residents to stay in their homes barring exceptions such as essential travel for essential work or supplies, exercise and recreation, (2) prohibited gatherings of 10 or more people, and (3) required “non-essential” businesses to cease operations. The March 20th order was again in direct response to the continued and increasing presence of the coronavirus on property or around Plaintiff’s premises.

64. The March 20th order specifically acknowledges that SARS-CoV-2 and the COVID-19 Pandemic causes direct physical loss and damage to property. In pertinent part, paragraph 12(I) of the March 20th order provides that “entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site *due to the virus’s propensity to physically impact the surfaces and personal property.*” [emphasis added]

65. Independent of the orders at issue, the overwhelmingly likely presence of SARS-CoV-2 particles at, on, and in Plaintiff’s insured premises and property interrupted its normal business operations and resulted in significant losses.

66. The executive orders, including but not limited to the Stay At Home Orders, prohibit access to Plaintiffs’ premises described in the Policy.

67. The State of Illinois, through the Governor and the Department of Health, have issued, and continue to issue, authoritative orders governing Illinoisans and Illinois businesses, including Plaintiff’s, in response to the physical presence of SARS-CoV-2 and the COVID-19 Pandemic, the effect of which have required and continue to require Plaintiff to cease and/or significantly reduce operations at, and that have prohibited and continue to prohibit access to, the premises described in the Policies.

68. The Fox Valley Mall management closed the mall in which Plaintiff's restaurant is located to the public in response to the physical presence of SARS-CoV-2, the COVID-19 Pandemic, and the Executive Orders.
69. State and local governmental authorities, and public health officials around the Country, acknowledge that SARS-CoV-2 and the COVID-19 Pandemic cause direct physical loss and damage to property. For example:
- a. The state of Colorado issued a Public Health Order indicating that "COVID-19... physically *contributes to property loss, contamination, and damage*..." (Emphasis added);
 - b. The City of New York issued an Emergency Executive Order in response to COVID-19 and the Pandemic, in part "because the virus *physically is causing property loss and damage*." (Emphasis added);
 - c. Broward County, Florida issued an Emergency Order acknowledging that COVID-19 "*is physically causing property damage*." (Emphasis added);
 - d. The State of Washington issued a stay at home Proclamation stating the "COVID-19 pandemic and its progression... remains a public disaster affecting life, health, [and] *property*..." (Emphasis added);
 - e. The State of Indiana issued an Executive Order recognizing that COVID-19 has the "propensity to *physically* impact surfaces and personal *property*." (Emphasis added);
 - f. The City of New Orleans issued an order stating "there is reason to believe that COVID-19 may spread amongst the population by various means of exposure, including the propensity to attach to surfaces for prolonged period of time, thereby spreading from surface to person and *causing property loss and damage* in certain circumstances." (Emphasis added);
 - g. The State of New Mexico issued a Public Health Order acknowledging the "threat" COVID-19 "poses" to "*property*." (Emphasis added);

- h. North Carolina issued a statewide Executive Order in response to the Pandemic not only “to assure adequate protection for lives,” but also to “assure adequate protection of... *property*.” (Emphasis added); and
- i. The City of Los Angeles issued an Order in response to COVID-19 “because, among other reasons, the COVID-19 virus can spread easily from person to person and it is *physically causing property loss or damage* due to its tendency to attach to surfaces for prolonged periods of time.” (Emphasis added).
- j. The United States House of Representatives sent a letter to various insurance industry trade groups on March 18, 2020, stating that “[b]usiness interruption insurance is intended to protect businesses against income losses as a result of disruptions to their operations.”

70. SARS-CoV-2 and the COVID-19 Pandemic are physically impacting public and private property in Illinois and throughout the rest of the country.

71. SARS-CoV-2 and the COVID-19 Pandemic has caused and continues to cause direct physical loss and damage to property.

72. People in Illinois have been diagnosed with SARS-CoV-2.

73. People in Illinois have, and have had, SARS-CoV-2 but have not been diagnosed.

74. People in Illinois have SARS-CoV-2 particles on or about their person and personal property.

75. Properties and premises throughout Illinois contain the presence of SARS-CoV-2 particles on surfaces and items of property.

76. SARS-CoV-2 particles have been physically present at Plaintiff’s premises described in the Policy during the time the Policy was in effect.

77. SARS-CoV-2 particles have been physically present on surfaces and items of property located at Plaintiff's premises described in the Policy during the time the Policy was in effect.
78. Airborne SARS-CoV-2 particles have been physically present at Plaintiff's premises described in the Policy during the time the Policy was in effect.
79. People carrying SARS-CoV-2 particles in, on or about their person have been present at Plaintiff's premises described in the Policy during the time the Policy was in effect.
80. The presence of SARS-CoV-2 particles in, on, or about Plaintiff's premises is a defect, deficiency, inadequacy, and/or dangerous condition in the premises.
81. Plaintiff's operations were suspended, in part, due to the publicity resulting from the suspicion of contamination in, on, or about Plaintiff's premises.
82. Plaintiff has sustained direct physical loss and damage to items of property located at the premises and direct physical loss and damage to the premises described in the Policy as a result of the presence of SARS-CoV-2, COVID-19 particles and/or the Pandemic.
83. Plaintiff submitted a timely insurance claim to Defendant, Society.
84. Defendant Society has denied Plaintiff's claim.
85. There is a dispute about whether Plaintiff is entitled to coverage under the Policy for its losses sustained and to be sustained in the future. Accordingly, Plaintiff is entitled to declaratory relief from this Court pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201.

DEFENDANT SOCIETY'S RESPONSE TO THE PHYSICAL PRESENCE OF SARS-CoV-2, THE COVID-19 PANDEMIC, AND PLAINTIFF'S CLAIM

86. Society denied claims for coverage described herein preemptively and *en masse* without investigating any individual claims, including Plaintiff's claim.

87. On March 16, 2020, Society circulated a memorandum to its insurance agency partners which stated, among other things:

- a. “a quarantine of any size, or brought about by a governmental action without a Covered Cause of Loss, would likely not trigger Business Income or Extra Expense coverages under our policies;”
- b. “A widespread governmental imposed shutdown due to COVID-19 (coronavirus) would likely not trigger the additional coverage of Civil Authority;”
- c. COVID-19 “would be unlikely to trigger” Contamination coverage because it “is spread through human contact and is not seen as a foodborne illness;” and
- d. “Any alleged COVID-19 (coronavirus) exposures or spoilage from the extended shelf life of a produce is not a Spoilage Covered Cause of Loss.” A copy of the memorandum is attached hereto as Exhibit 2.

88. Society denied Plaintiff’s claim after fourteen (14) days (on April 16, 2020), without conducting an investigation into Plaintiff’s individual claim, for the following reasons:

- a. “no damage caused by a direct physical loss to property has occurred;”
- b. “Restaurants were, and still are, allowed and encouraged to continue operations and fulfill orders for delivery, pick-up, and carry-out;”
- c. “if you sustain loss or damage because of the acts, decisions, or omissions of another person, entity, organization, or governmental body, we do not provide coverage for such losses (unless such act, decision, or omission) results in a Covered Cause of Loss.”

89. On March 27, 2020, Society issued a memorandum to all of its policyholders which asserted that “pandemic events” are generally excluded from insurance coverage. The

memorandum stated in part: “Insurance has always identified and excluded coverage for loss events that are so large, or are so unpredictable, that they outstrip the capacity of the industry to fund losses, or even price the exposure accurately. Exclusions for acts of war, nuclear incidents and flood are part of insurance policies for these reasons. These are the same reasons that coverages for pandemic events are excluded. The insurance industry combined does not have enough assets to fund these losses and still be able to meet past and future obligations. Only government has the financial power to respond to these types of events.

COUNT I: DECLARATORY JUDGMENT

90. The allegations contained in the foregoing paragraphs are hereby incorporated by reference.
91. There is a dispute about whether Plaintiff is entitled to coverage under the Policy for its losses sustained and to be sustained in the future. Accordingly, Plaintiff is entitled to declaratory relief from this Court pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201.
92. Plaintiff is entitled to and demands a declaration that:
- a. Plaintiff sustained direct physical loss or damage to property at its premises described in the Policies as a result of SARS-CoV-2, COVID-19 and/or the COVID-19 Pandemic;
 - b. SARS-CoV-2 and/or COVID-19 is a covered cause of loss under the Policy;
 - c. The COVID-19 Pandemic is a covered cause of loss under the Policy;
 - d. The losses incurred by Plaintiff as the result of the orders issued by the Governor of Illinois, and the Illinois Department of Health, are covered losses under the Policy;

- e. Defendant Society has not and cannot prove the application of any exclusion or limitation to the coverage for Plaintiff's losses alleged herein;
- f. Plaintiff is entitled to coverage for its past and future Business Income loss(es) and Extra Expense resulting from SARS-CoV-2, COVID-19 and/or the COVID-19 Pandemic for the time period set forth in the Policy;
- g. Plaintiff is entitled to coverage for loss(es) due to contamination and/or publicity resulting from the discovery or suspicion of contamination;
- h. Plaintiff is entitled to coverage for loss(es) due to the acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body;
- i. Plaintiff has coverage for any substantially similar executive order in the future that limits or restricts the access to its place of business and/or its operations;
- j. Defendant Society has waived any right it may have had to assert defenses to coverage or otherwise seek to bar or limit coverage for Plaintiff's losses by issuing blanket coverage denials without conducting a claim investigation as required under Illinois law; and
- k. Any other issue that may arise during the course of litigation that is a proper issue on which to grant declaratory relief.

93. Plaintiff does not seek a determination of its damages resulting from SARS-CoV-2, the COVID-19 or the COVID-19 Pandemic. If there is a dispute between the parties as to the amount of the loss, the Policy provides that such a dispute should be resolved by Appraisal:

“If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraise; and

b. Bear the other expenses of the appraisal and umpire quality.

94. Plaintiff prays for declaratory relief from the Court that Defendant Society must resolve any dispute about the amount of loss via Appraisal. Plaintiff also requests the Court to appoint the umpire if the appraisers cannot agree.

95. Plaintiff prays for any further relief the Court deems proper, including attorney fees, interest, and costs as allowed by law or in the exercise of the Court's equitable jurisdiction.

WHEREFORE, Plaintiff seeks judgment against Defendant Society, as set forth above, plus interest, costs, and attorney fees as allowed by law.

COUNT II: BREACH OF CONTRACT

96. The allegations contained in the foregoing paragraphs are hereby incorporated by reference.

97. The Policy is an insurance contract under which Society was paid premiums in exchange for its promise to pay Plaintiff's losses for claims covered by the Policy, such as those described in this complaint.

98. Plaintiff has complied with all applicable provisions of the Policy, including payment of premiums in exchange for coverage under the Policy. Yet, Society has abrogated its insurance coverage obligations pursuant to the Policy's clear and unambiguous terms.

99. By denying coverage for any business losses incurred by Plaintiff in connection with SARS-CoV-2, COVID-19, the COVID-19 pandemic, and/or the executive orders, Society has breached its coverage obligations under the Policy.

100. As a result of Society's breach of the Policy, Plaintiff has sustained substantial damages for which Society is liable.

WHEREFORE, Plaintiff seeks judgment against Defendant Society for breach of contract, as set forth above, including an award of damages for breach of contract to be proven at trial, plus interest, costs, and attorney fees as allowed by law.

COUNT III: ILLINOIS INSURANCE CODE 215 ILCS 5/155

101. The allegations contained in the foregoing paragraphs are hereby incorporated by reference.

102. The memoranda issued by Society misrepresented the scope of the insurance policy issued to Plaintiff and others similarly situated.

103. Upon information and belief, Society directed its agents to make sham claim notifications before Plaintiff and others similarly situated even submitted their claims to Society. Society took these actions as part of its plan to discourage claim notifications and to avoid any responsibility for its policyholders' staggering losses, in violation of Illinois law.

104. The memoranda issued by Society denied coverage without investigating Plaintiff's claim or claims of others similarly situated.

105. The denial letter issued to Plaintiff misrepresented the scope of the insurance policy issued to Plaintiff.

106. Society failed to investigate Plaintiff's individual claims and the claims of others similarly situated as required and instead issued denials that were based on any individual claim.

107. Society engaged in the following improper claims practices as set forth in 215 ILCS 5/154.6:
- a. Society knowingly misrepresented to Plaintiff relevant facts or policy provisions related to the coverages at issue. (215 ILCS 5/154.6(a)).
 - b. Society failed to adopt and implement reasonable standards for the prompt investigations and settlement of claims arising under its policies. (215 ILCS 5/154.6(c)).
 - c. Society failed to attempt in good faith to effectuate prompt, fair and equitable settlement of Plaintiff's claim in which liability was reasonably clear. (215 ILCS 5/154.6(d)).
 - d. Society refused to pay claims without conducting a reasonable investigation based on all available information. (215 ILCS 5/154.6(h)).
 - e. Society failed to provide a reasonable and accurate explanation of the basis in the insurance policy or applicable law for the denial of Plaintiff's claim. (215 ILCS 5/154.6(n)).
108. The foregoing improper claims practices were committed knowingly in violation of the Illinois Insurance Code and/or with such frequency to indicate a persistent tendency to engage in that type of conduct.
109. Society's actions have caused an improper and lengthy delay in Plaintiff receiving payment for its claim.
110. Society's actions in denying Plaintiff's claims were and are vexatious and unreasonable.
111. There is no bona-fide dispute as to coverage.

WHEREFORE, Plaintiff seeks judgment against Defendant Society, as set forth above, including attorney fees, an amount set forth in 215 ILCS 5/155, and other costs as allowed by law.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury of all issues herein so triable.

Dated: May 20, 2021

Respectfully Submitted,

By: /s/ Michael R. Bertucci
Attorney for the Plaintiff

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FOR THE NORTHERN DISTRICT OF ILLINOIS
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Plaintiff

vs.

SOCIETY INSURANCE, INC.

Defendant.

Case No. _____

MDL No. 2964

Honorable Edmond E. Chang

AFFIDAVIT OF MICHAEL R. BERTUCCI, ESQ.

NOW COMES your Affiant, Michael R. Bertucci, an attorney being first duly sworn upon oath and states as follows:

1. I am one of Plaintiff's attorneys in the above matter. I am a resident of the State of Illinois, who is over the age of eighteen (18) and who is under no testimonial disability.
2. This case is filed as a tag-along to multidistrict litigation number 2964 assigned to the Honorable Judge Edmond E. Chang.

FURTHER, YOUR AFFIANT SAYETH NOT.

PHILLIPS LAW OFFICES

/s/ Michael R. Bertucci
Michael R. Bertucci, Esq.

This 20th day of May, 2021

Signed and sworn to before me on this 20th day of May, 2021.

Kelly A. Willoughby Notary Public

