

STATE OF INDIANA ) IN THE MARION COUNTY SUPERIOR COURT
)SS:
COUNTY OF MARION ) CAUSE NO.:

GEORGETOWN DENTAL, LLC, )
Plaintiff )
vs. )
THE CINCINNATI INSURANCE COMPANY and )
THE CINCINNATI CASUALTY COMPANY, )
Defendants. )

Received
JAN 19 2021
C. Ray - Legal Litigation

SUMMONS

TO DEFENDANT: The Cincinnati Insurance Company
c/o Registered Agent: Jon Stowell
101 West Washington Street, Suite 1100
Indianapolis, Indiana 46204

You are hereby notified that you have been sued by the person named as plaintiff and in the Court indicated above.

The nature of the suit against you is stated in the Complaint which is attached to this Summons. It also states the relief sought or the demand made against you by the plaintiff.

An answer or other appropriate response in writing to the complaint must be filed either by you or your attorney within twenty (20) days, commencing the date after you receive this Summons, (or twenty-three (23) days if this Summons was received by mail), or a judgment by default may be rendered against you for the relief demanded by plaintiff.

If you have a claim for relief against the plaintiff from the same transaction or occurrence, you must assert it in your written answer.

Dated 1/13/2021

Myra A. Eldridge
Clerk, Marion County Superior Court



(The following manner of service of summons is hereby designated.)

- X Registered or certified mail.
Service at place of employment, to-wit:
Service on individual — (Personal or copy) at above address.
Service on agent. (Specify)
Other service. (Specify)

John F. Townsend, III
Attorney for Plaintiff

151 North Delaware Street, Suite 770, Indpls., IN 46204
Address
(317) 264-4444

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SUMMONS

TO DEFENDANT: The Cincinnati Casualty Company
c/o Registered Agent: Jon Stowell
101 West Washington Street, Suite 1100
Indianapolis, Indiana 46204

You are hereby notified that you have been sued by the person named as plaintiff and in the Court indicated above.

The nature of the suit against you is stated in the Complaint which is attached to this Summons. It also states the relief sought or the demand made against you by the plaintiff.

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If you have a claim for relief against the plaintiff from the same transaction or occurrence, you must assert it in your written answer.

Dated 1/13/2021
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John F. Townsend, III
Attorney for Plaintiff

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GEORGETOWN DENTAL, LLC, )  
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 THE CINCINNATI CASUALTY COMPANY, )  
 )  
 Defendants. )

**COMPLAINT FOR DAMAGES**

Comes now the Plaintiff, by counsel, and for it's cause of action against the Defendant, alleges:

1. At all times hereinafter mentioned Defendants' principal place of business in the State of Indiana was located in Indianapolis, Marion County, Indiana.
2. At all times hereinafter mentioned Defendants insured Plaintiff, a dental office, under a policy of insurance identified as Policy No. ECP 021 17 84. (See attached Exhibit 1, Insurance Policy)
3. On February 24<sup>th</sup>, 2020 the United States Center for Disease Control and the American Dental Association suggested postponing non-emergency or elective dental procedures due to the presence of Covid-19 in the State of Indiana.

4. On March 6<sup>th</sup>, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-02 which declared a public health emergency in the State of Indiana and urged coordination of the entire healthcare infrastructure of Indiana to help prevent the spread of disease and to conserve and optimize the use of personal protection equipment.
5. On March 16<sup>th</sup>, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-04 requiring the postponement of non-essential elective and non-urgent surgical procedures at hospital and ambulatory surgery centers.
6. On March 23, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-08 calling for Indiana residents to “stay at home” and further urged dental offices to use good judgment to avoid potentially contributing to cause the spread of Covid-19.
7. On March 30<sup>th</sup>, 2020 Indiana Governor Eric Holcomb ordered dentists to cancel or postpone elective and non-urgent procedures in Executive Order 20-13.
8. Indiana Governor Eric Holcomb issued Executive Order 20-22 allowing dentists to resume providing services as of 11:59 p.m. on Sunday, April 26<sup>th</sup>, 2020.
9. Executive Order 20-22 was subject to reevaluation every seven days and encouraged businesses to comply with social distancing requirements.
10. On April 24<sup>th</sup>, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-24 allowing the resumption of elective and non-urgent medical procedures, “so long as they have adopted policies and best practices that protect patients, physicians and staff against Covid-19 and also have sufficient quantities of PPE.”

11. Executive Order 20-24 urged healthcare providers to, “consult the best practices and recommendations developed by their respective medical associations or industries, many of which can be found online.”
12. As a result of the above guidelines and orders from the United States Center for Disease Control, American Dental Association and State of Indiana, Georgetown Dental was closed from March 12<sup>th</sup>, 2020 to May 11<sup>th</sup>, 2020 and has also experienced significant periods of partial closure.
13. During the period when Georgetown Dental, LLC was closed or partially closed due to Covid-19 restrictions, Plaintiff sustained a loss of income. Plaintiff has also incurred various expenses in connection with the property and dental practice due to the Covid-19 pandemic.
14. The insurance policy at issue contains a “Building and Personal Property Coverage Form” which states:

“We will pay for the direct ‘loss’ to Covered Property at the ‘premises’ caused by or resulting from any Covered Cause of Loss.” (FM 101 05 16 at p.3.)
15. Closure of Georgetown Dental, LLC due to the Covid-19 pandemic resulted in a loss of Plaintiff’s ability to use the covered property for the intended purpose of a dental practice and, therefore, Defendant is liable for Plaintiff’s resulting damages pursuant to the terms of the policy as a “covered cause of loss”.
16. The insurance policy at issue also contains “Business Income and Extra Expense” coverage. (FM 101 05 16 at pp.18-19, 21.)

17. The Business Income Expense and Extra Expense Coverage provides Defendants, “. . . will pay for the actual loss of ‘Business Income’ and ‘Rental Value’ you sustain due the necessary ‘suspension’ of your ‘operations’ during the ‘period of restoration’. The ‘suspension’ must be caused by direct ‘loss’ to property at a ‘premises’ caused by or resulting from any Covered Cause of Loss.” (FM 101 05 16 at pp. 18-19, 21.)
18. The loss of business income and extra expenses incurred by Georgetown Dental, LLC due to closure caused by the Covid-19 pandemic is a covered loss under the Business Income and Extra Expense Coverage for which Defendant is liable.
19. There is a separate identical business income and extra expense coverage form elsewhere in the policy which further provides coverage to Georgetown Dental, LLC as a result of losses occasioned by the Covid-19 pandemic and the inability to use the premises for providing dental care. (FA 213 05 16 at 1-2.)
20. The insurance policy at issue also contains “Civil Authority” coverage which provides in relevant part, “. . . we will pay for the actual loss of ‘Business Income’ and necessary Extra Expense you sustain caused by action of civil authority that prohibits access to the ‘premises’ . . .” . (FM 101 05 16 at pp. 19-21.)
21. Additionally, the policy provides separate civil authority coverage provisions in the “Business Income and Extra Expense” coverage form providing substantially the same or similar coverage. (FA 213 05 16 at pp. 2-3.)
22. The closure of Georgetown Dental, LLC resulting from the recommendations and orders of various civil authorities is a covered cause of loss for which Defendant is liable under the insurance policy.

23. Plaintiff requests the Court interpret the insurance policy as outlined above and issue a declaratory judgment that the insurance policy at issue provides coverage for the damages sustained by Plaintiff during the closure of the dental office due to the Covid-19 pandemic.
24. Plaintiff further requests the Court determine the amount of damages sustained by Plaintiff and the amount of money owed to Plaintiff under the applicable insurance policy.

WHEREFORE, Plaintiff prays for a declaratory judgment against the Defendant as to the coverage issue and a further judgment against the Defendant in an amount which will fully and fairly compensate it for its injuries, damages, and losses, for the costs of this action, and for all other proper relief.

Respectfully submitted,

TOWNSEND & TOWNSEND, LLP

/s/ John F. Townsend, III

John F. Townsend, III - #19600-49  
151 North Delaware Street, Suite 770  
Indianapolis, Indiana 46204  
317-264-4444 Phone  
317-264-2080 Fax  
townsendlawfirm@aol.com  
*Counsel for Plaintiff*



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GEORGETOWN DENTAL, LLC, )
Plaintiff )
vs. )
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THE CINCINNATI CASUALTY COMPANY, )
Defendants. )

APPEARANCE

Initiating party

- 1. Georgetown Dental, LLC
Name of first initiating party
2. Telephone of pro se initiating party
3. Attorney information (as applicable for service of process):
Name: John F. Townsend, III
Address: TOWNSEND & TOWNSEND, LLP
151 N. Delaware Street, Suite 770
Indianapolis, IN 46204
Atty Number: 19600-49
Phone: (317) 264-4444
Fax: (317) 264-2080
Email: townsendlawfirm@aol.com
(Counsel for Plaintiff, Georgetown Dental, LLC.)
4. Case Type requested: CT
[See Administrative Rule 8(b)(3)]
5. Will accept FAX service: Yes No X
6. Social Security numbers of all family members in proceedings involving support issues.
7. Are there related cases? Yes No X If yes, list case number below:
8. Additional information required by state or local rule:

Authority: Pursuant to Trial Rule 3.1(A), this form shall be filed at the time an action is commenced. In emergencies, the requested information shall be supplied when it becomes available. Parties shall advise the court of a change in information previously provided to the court. This format is approved by the Division of State Court Administration.



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GEORGETOWN DENTAL, LLC, )  
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Plaintiff, )  
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v. )  
 )  
THE CINCINNATI INSURANCE )  
COMPANY and THE CINCINNATI )  
CASUALTY COMPANY, )  
 )  
Defendants. )

**E-FILING APPEARANCE BY ATTORNEY IN CIVIL CASE**

1. The party on whose behalf this form is being filed is:  
Initiating \_\_\_\_ **Responding X** Intervening \_\_\_\_; and  
the undersigned attorney and all attorneys listed on this form now appear in this case for  
the following parties: **THE CINCINNATI INSURANCE COMPANY and  
THE CINCINNATI CASUALTY COMPANY**

2. Attorney information for service as required by Trial Rule 5(B)(2)

**Dennis M. Dolan, Attorney No. 34423-45  
LITCHFIELD CAVO LLP  
3235 45th Street, Suite 302  
Highland, Indiana 46322  
Phone: (312) 781-6584  
Email Address: Dolan@LitchfieldCavo.com**

IMPORTANT: Each attorney specified on this appearance:

- (a) Certifies that the contact information listed for him on the Indiana Supreme Court Roll of Attorneys is current and accurate as of the date of this Appearance;
- (b) Acknowledges that all orders, opinions, and notices from the court in this matter that are served under Trial Rule 86(G) will be sent to the attorney at the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information listed above for the attorney; and
- (c) Understands that he is solely responsible for keeping his Roll of Attorneys contact information current and accurate, see Ind. Admis. Disc. R. 2(A).

Attorneys can review and update their Roll of Attorneys contact information on the Courts Portal as <http://portal.courts.in.gov>.

- 3. This is a CT case type as defined in administrative Rule 8(B)(3).
- 4. This case involves child support issues. Yes \_\_\_ No **X** (If yes, supply social security numbers for all family members on a separately attached document filed as confidential information on **light green paper**. Use Form TCM-TR3.1-4.)
- 5. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes \_\_\_ No **X** (If Yes, the initiating party must provide an address for the purpose of legal service but that address should not be one that exposes the whereabouts of a petitioner.) The party shall use the following address for purposes of legal service:
  - \_\_\_\_\_ Attorney’s address
  - \_\_\_\_\_ The Attorney General Confidentiality program address  
(contact the Attorney General at 1-800-321-1907 or e-mail address is **confidential@atg.in.gov**).
  - \_\_\_\_\_ Another address (provide)

\_\_\_\_\_

This case involves a petition for involuntary commitment. Yes \_\_\_ No **X**

- 6. If Yes above, provide the following regarding the individual subject to the petition for involuntary commitment:
  - a. Name of the individual subject to the petition for involuntary commitment if it is not already provided in #1 above: \_\_\_\_\_
  - b. State of Residence of person subject to petition: \_\_\_\_\_
  - c. At least one of the following pieces of identifying information:
    - (i) Date of Birth \_\_\_\_\_
    - (ii) Driver’s License Number \_\_\_\_\_  
State where issued \_\_\_\_\_ Expiration date \_\_\_\_\_
    - (iii) State ID number \_\_\_\_\_  
State where issued \_\_\_\_\_ Expiration date \_\_\_\_\_
    - (iv) FBI number \_\_\_\_\_
    - (v) Indiana Department of Corrections Number \_\_\_\_\_
    - (vi) Social Security Number is available and is being provided in an attached

confidential document Yes \_\_\_\_ No \_\_\_\_

7. There are related cases: Yes \_\_ **No X** (If yes, list on continuation page.)
8. Additional information required by local rule: **not applicable**.
9. There are other party members: Yes \_\_ **No X** (If yes, list on continuation page.)
10. This form has been served on all other parties and Certificate of Service is below:  
**Yes X** No \_\_\_\_

/s/ Dennis M. Dolan  
Attorney-at-Law  
(Attorney information shown above.)

**CERTIFICATE OF SERVICE**

I, Dennis M. Dolan, an attorney, hereby certify that a copy of the foregoing was electronically served on all counsel of record on the date shown on the service stamp on the first page of this document, by using Odyssey efileing provider for Efile.INcourts.gov.

/s/ Dennis M. Dolan