

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

Bowser Automotive, Inc.

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

(c) Attorneys (Firm Name, Address, and Telephone Number) John P. Goodrich, Esq., Jack Goodrich & Associates, P.C., 429 Fourth Ave., Ste. 900, Pittsburgh, PA 15219; 412-261-4663

DEFENDANTS

Federal Insurance Company and Chubb Group of Insurance Companies

County of Residence of First Listed Defendant Hunterdon County, NJ (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known) Jesse R. Loffler, Esquire Cozen O'Connor, One Oxford Centre, 301 Grant Street, 41st Floor, Pittsburgh, PA 15219 412-620-6493; jloffler@cozen.com;

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Foreign Nation, etc.)

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES.

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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§1332, 1441 and 1446

Brief description of cause:

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: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 05/21/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Jesse R. Loffler, Esquire

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44A REVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number \_\_\_\_\_ . Short Caption \_\_\_\_\_
2.  This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit  
EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

I. CIVIL CATEGORY (Select the applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/ Jesse Loffler, Esq.

Date: 5/21/2020

\_\_\_\_\_

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

## 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.

**UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH DIVISION**

BOWSER AUTOMOTIVE, INC.	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	CIVIL ACTION NO. 2:20-cv-747
CHUBB GROUP OF INSURANCE COMPANIES and FEDERAL INSURANCE COMPANY,	:	
	:	
Defendants.	:	
	:	

**AMENDED NOTICE OF REMOVAL**

TO: CLERK OF THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants “Chubb Group of Insurance Companies” (erroneously and improperly named as a defendant herein<sup>1</sup>) and Federal Insurance Company (“Federal”, and together with the erroneously and improperly named “Chubb Group of Insurance Companies”, “Defendants”), by and through its undersigned counsel, hereby gives notice of removal of this action from the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Law Division, where it is pending as Case No. GD-20-5272, to the United States District Court for the Western District of Pennsylvania. As set forth more fully below, the case is properly removed to this Court pursuant to 28 U.S.C. § 1441 because Defendants satisfy

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<sup>1</sup> Federal does not concede that “Chubb Group of Insurance Companies” was properly served with the Complaint. “Chubb Group of Insurance Companies” is not an entity, corporation, partnership, unincorporated association, or insurance company. The term “Chubb Group of Insurance Companies” is a descriptive phrase and trade style used to describe several separately incorporated and separately capitalized insurance companies under common ownership. “Chubb Group of Insurance Companies” is not licensed or incorporated in any state. It does not enter into contracts or agreements, and it does not issue insurance policies. Accordingly, “Chubb Group of Insurance Companies” is not a legal entity with the capacity to be sued.

the procedural requirements for removal under 28 U.S.C. § 1446, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. In support of removal, and without waiver of any defense, including but not limited to any defense pursuant to Rule 12 of the Federal Rules of Civil Procedure, and expressly reserving the right to assert any such defense in this action, Defendants aver:

**THE STATE COURT ACTION**

1. Plaintiff Bowser Automotive, Inc. (“Plaintiff”), filed a Complaint against Plaintiff on April 28, 2020, in the Court of Common Pleas of Allegheny County, Case No. GD-20-5272 (“State Court Action”). See Filed Complaint, attached hereto as Exhibit A; and Docket, with copies of all case filings and orders, attached hereto as Exhibit B.

2. On or about May 1, 2020, a copy of such complaint was delivered to “Chubb Group of Insurance Companies” at the following address: 600 Independence Parkway, P.O. Box 4700, Chesapeake, VA 23327-4700. See Received Complaint, attached hereto as Exhibit C.

3. Plaintiff avers that it is a Delaware corporation with its principal place of business at 1001 Clairton Boulevard, Pleasant Hills, Allegheny County, Pennsylvania 15236. See Filed Complaint, Exhibit A, at ¶ 1.

4. Plaintiff’s Complaint seeks declaratory relief relating to an insurance claim made under insurance policy no. 3605-30-31 LIO issued by Federal Insurance Company for alleged “losses, damages, and expenses” relating to a “partial loss of use” of its premises arising out of the “COVID-19 pandemic” and certain orders issued by Governor Tom Wolf. Plaintiff alleges that it has suffered “Business Income, Civil Authority and other related losses, damages, and expenses which are covered by policies of insurance issued by the Defendants.” Id. at ¶¶ 26-31.

5. Plaintiff avers that it is “entitled to a declaration that it is covered under the Chubb policy for, *inter alia*, business income, extra expense, contamination, civil authority and other coverages under the Chubb Policy.” Id. at ¶ 33.

6. Plaintiff alleges a sole claim for declaratory relief against Defendants. Id. at ¶¶ 37-49.

7. In Plaintiff’s claim for declaratory relief, Plaintiff seeks an Order that it “is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders from Defendants” and “such other relief as the court deems appropriate.” Id. at “WHEREFORE” clause.

### **DIVERSITY JURISDICTION**

8. Under 28 U.S.C. § 1332(a)(1), “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different States.”

9. This action satisfies the complete diversity of citizenship requirement of 28 U.S.C. § 1332(a)(1).

10. A corporation is a citizen of the state in which it is incorporated and in which it maintains its principal place of business. 28 U.S.C. § 1332(c).

11. Plaintiff’s verified Complaint declares that it is a Delaware corporation with its principal place of business in Pleasant Hills, Pennsylvania. See Ex. A ¶ 1. Plaintiff is therefore a citizen of the State of Delaware and Commonwealth of Pennsylvania.

12. Federal is an Indiana corporation and maintains its principal place of business in New Jersey. Accordingly, Federal is a citizen of the States of Indiana and New Jersey

13. “Chubb Group of Insurance Companies,” erroneously and improperly named as a defendant, is not an entity, corporation, partnership, unincorporated association, or insurance company. The term “Chubb Group of Insurance Companies” is a descriptive phrase and trade style used to describe several separately incorporated and separately capitalized insurance companies under common ownership. “Chubb Group of Insurance Companies” is not licensed or incorporated in any state. It does not enter into contracts or agreements, and it does not issue insurance policies. Accordingly, “Chubb Group of Insurance Companies” is not a legal entity with the capacity to be sued.

14. Complete diversity exists because Plaintiff is a citizen of the state of Delaware and Commonwealth of Pennsylvania and Defendant Federal is a citizen of the states of Indiana and New Jersey.

15. This action also satisfies the amount in controversy requirement of 28 U.S.C. § 1332(a).

16. The matter in controversy exceeds the sum or value of \$75,000 because Plaintiff’s verified Complaint seeks declaratory relief under a policy of insurance with combined Building limits of approximately \$32,727,191, combined Personal Property limits of approximately \$8,000,000, and combined Business Income with Extra Expense limits of approximately \$17,700,000. See Ex. C at Exhibit A, Property Insurance: Declarations, pages 2-5.

17. Based on Plaintiff’s allegations in the Complaint, it is therefore averred that the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

18. Accordingly, the United States District Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

**REMOVAL JURISDICTION**

19. This action is properly removed pursuant to 28 U.S.C. §§ 1441 and 1446.

20. Under Section 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” See 28 U.S.C. § 1441(a). Section 1441(b) further provides that “such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which the action is brought.” Id. § 1441(b).

21. Plaintiff filed this action in the Court of Common Pleas of Allegheny County. The U.S. District Court for the Western District of Pennsylvania is the judicial district embracing Allegheny County, the place where the State Court Action was brought, and, therefore, is the proper district court to which this case should be removed. See 28 U.S.C. §§ 1441(a), 1446(a).

22. Under Section 1446(b), the notice of removal shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief. See 28 U.S.C. § 1446(b).

23. Defendants received a copy of the Complaint on or about May 1, 2019. Defendants are filing this notice within thirty (30) days of receipt of the Complaint pursuant to 28 U.S.C. § 1446(c). Therefore, this removal is timely because 30 days could not have elapsed from the date of service of the Complaint.

24. Pursuant to Section 1446(b)(2)(A), “all defendants who have been properly joined and served” consent to removal.



25. Further, pursuant to Section 1446(a), Defendants are also filing with this Notice of Removal copies of all process, pleadings, orders, and other papers or exhibits of every kind existing on file in the Court of Common Pleas of Allegheny County in this removed action.

26. Additionally, Defendants are filing a copy of this petition for removal with the Prothonotary of the Court of Common Pleas of Allegheny County. See 28 U.S.C. § 1446(d).

27. Defendants reserve the right to raise all defenses and objections in this action after the action is removed to this Court.

WHEREFORE, Defendants, Federal Insurance Company and “Chubb Group of Insurance Companies” (erroneously and improperly named as a defendant herein) hereby remove this action now pending against it in the Court of Common Pleas of Allegheny County to the United States District Court for the Western District of Pennsylvania.

Respectfully submitted,

COZEN O’CONNOR

BY: /s/ Jesse R. Loffler, Esq.

Jesse R. Loffler, Esq. (#320962)

One Oxford Centre

301 Grant Street, 41st Floor

Pittsburgh, PA 15219

[jloffler@cozen.com](mailto:jloffler@cozen.com)

-and-

Eric D. Freed, Esq. (#39252) (to be admitted  
*pro hac vice*)

Stephen S. Kempa, Esq. (#319143) (to be  
admitted *pro hac vice*)

One Liberty Place

1650 Market Street, Suite 2800

Philadelphia, PA 19103

[efreed@cozen.com](mailto:efreed@cozen.com)

[skempa@cozen.com](mailto:skempa@cozen.com)

*Attorneys for Defendants*

Dated: May 21, 2020

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BOWSER AUTOMOTIVE, INC. :  
1001 Clairton Boulevard :  
Pleasant Hills, PA 15236 :  
 :  
vs. :  
 : No.  
CHUBB GROUP OF INSURANCE :  
COMPANIES :  
600 Independence Parkway :  
PO Box 4700 :  
Chesapeake, VA 23327-4700 :  
and :  
FEDERAL INSURANCE :  
COMPANY :  
Capital Center :  
215 North Illinois, Suite 1100 :  
Indianapolis, IN 46204-1927 :

**CIVIL ACTION – COMPLAINT SEEKING  
DECLARATORY RELIEF**

**Parties**

1. Plaintiff, Bowser Automotive, Inc, (hereinafter “Bowser”) is a corporation organized and existing under the State of Delaware, with its principal place of business located at 1001 Clairton Boulevard, Pleasant Hills, Allegheny County, Pennsylvania 15236; as such, Plaintiff is a citizen of the Commonwealth of Pennsylvania and the County of Allegheny.

2. Plaintiff owns and operates Bowser Automotive, a group of new and used car dealerships and repair centers.

3. Defendant, Chubb Group of Insurance Companies (hereinafter “Chubb”) is property and casualty insurance company with a principal place of business at 600 Independence

Parkway, PO Box 4700, Chesapeake, VA 23327-4700, and, being duly authorized, regularly and routinely conducts business in the Commonwealth of Pennsylvania.

4. Defendant, Chubb owns and operates various subsidiary insurance companies including Federal Insurance Company (hereinafter “Federal”) which has a primary business address of Capital Center 215 North Illinois, Suite 1100, Indianapolis, IN 46204-1927, and, being duly authorized, regularly and routinely conducts business in the Commonwealth of Pennsylvania.

5. The present action seeks declaratory relief as to a Chubb/Federal Insurance policy, described in detail below, with respect solely to Pennsylvania state law for losses, damages, and expenses related to the COVID-19 pandemic.

6. Defendants, Chubb and Federal, regularly and routinely conduct business in Allegheny County, Pennsylvania.

#### **Insurance Coverage**

7. At all times material hereto, there existed, in full force and effect, a Custmarq Classic Insurance Program Policy (No. 3605-30-31 LIO) (“Chubb Policy”) issued by Defendants Chubb and Federal, to Plaintiff, Bowser, providing, *inter alia*, property, business, personal property, business income, extra expense, continuation, civil authority and additional coverages applicable to the losses, damages, and expenses claimed in this action. A true and correct copy of the Chubb Policy is attached hereto and marked as Exhibit “A”.

8. The Chubb Policy was in effect and provided coverage for the period November 1, 2019 to November 1, 2020.

9. The Chubb Policy is an “All Risks” policy which provides coverage for losses, damages, and expenses to the insured premises unless specifically excluded.

10. The Chubb Policy does not exclude the losses, damages, and expenses caused by the COVID-19 Pandemic.

11. The Chubb Policy provides coverage for the losses, damages, and expenses incurred Plaintiff, Bowser, as a result of the COVID-19 pandemic and the actions of the government in response thereto.

12. This case involves purely an issue of Pennsylvania state law.

13. Plaintiff Bowser's claims arise out of a Pandemic.

### **Coronavirus Pandemic**

14. The Center for Disease Control and the World Health Organization has for years warned of the possibility of an airborne virus which could cause a worldwide pandemic.

15. Coronavirus COVID-19 is a highly contagious airborne virus which has rapidly spread and continues to spread across the United States.

16. COVID-19 has been declared a pandemic by the World Health Organization.

17. The COVID-19 virus remains stable and transmittable in aerosols and various surfaces for prolonged periods of time, up to two to three days on some surfaces.

18. The COVID-19 virus is a public health crisis that has profoundly affected all aspects of society, including the ability of the public to congregate and gather.

19. The COVID-19 pandemic has been exacerbated by the fact that the virus infects and stays on the surfaces of objects and materials for prolonged periods.

20. The Center for Disease Control has issued guidance that gatherings of more than ten (10) people should not occur; such gatherings increase the danger of contracting the COVID-19 virus.

21. On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency as a result of the COVID-19 virus.

22. On March 19, 2020, Governor Tom Wolf issued an Order requiring all non-life sustaining businesses in the Commonwealth to cease operation and to close all physical locations.

22. On March 23, 2020, Governor Tom Wolf issued a Stay at Home Order for citizens of various counties including Allegheny County.

23. On March 23, 2020 the Pennsylvania Department of Health issued a similar Order noting that the “operation of non-life sustaining businesses present the opportunity for unnecessary gatherings, personal contact and interaction that will increase the risk of transmission and the risk of community spread of COVID-19.”

24. On April 1, 2020, Governor Tom Wolf extended the March 23, 2020 Stay at Home Order to the entire Commonwealth of Pennsylvania.

25. The COVID-19 virus, as evidenced by these Orders, causes damage to property, particularly in places of business, such as that of Plaintiff, Bowser, and other similarly situated persons and organizations, where the operation of the business requires inter-action, gatherings and contact in areas where there exists a heightened risk of contamination by the COVID-19 virus.

#### **Impact of COVID-19 Pandemic**

26. As a result of the impact of the COVID-19 pandemic and the referenced Orders of the Governor, Plaintiff, Bowser, has sustained partial loss of use of the premises, was forced to totally close new and used car sales, has seen a dramatic decrease in its parts, service, and body shop business, and has been forced to furlough employees, thereby incurring losses, damages, and expenses.

27. As a result of the impact of the COVID-19 pandemic and the referenced Orders of the Governor, many similarly situated businesses have been ordered to close, thereby incurring losses, damages, and expenses similar to Plaintiff.

28. The business of Plaintiff, Bowser, like many businesses, operates in “closed environment” where many persons, including employees and customers, cycle in and out thereby creating a risk of contamination to the insured premises.

29. As a result of the COVID-19 pandemic, the business of Plaintiff, Bowser, like other similarly situated businesses, is susceptible to person to person, person to property, and property to person transmittal and contamination.

30. The COVID-19 pandemic has directly and adversely affected the business operations of Plaintiff, Bowser, by causing damage and the risk of further harm to the property and its occupants.

31. Plaintiff, Bowser, has suffered Business Income, Civil Authority and other related losses, damages, and expenses which are covered by policies of insurance issued by the Defendants Chubb and Federal.

#### **Claim for Recovery**

32. Plaintiff, Bowser, has made claim upon Defendants, Chubb and Federal, for recovery of losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders.

33. Plaintiff, Bowser, is entitled to a declaration that it is covered under the Chubb Policy for, *inter alia*, business income, extra expense, contamination, civil authority and other coverages under the Chubb Policy.

34. Defendants, Chubb and Federal, have wrongfully denied the claims Plaintiff, Bowser, for recovery of damages caused by the COVID-19 pandemic and referenced Orders.

35. Plaintiff, Bowser, is entitled to a declaration that the policies of insurance issued by Defendants Chubb, and Federal, provide coverage for the losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

36. Plaintiff, Bowser, is entitled to an Order enjoining Defendants, Chubb and Federal, from denying coverage to insureds for business income, extra expense, contamination, civil authority and other coverages for losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

**COUNT I**  
**(Declaratory Relief – Individual Claims)**

37. Plaintiff, Bowser, hereby incorporates by reference the foregoing Paragraphs 1 through 36 of this Complaint as though same were fully set forth herein.

38. Plaintiff, Bowser, is entitled to coverage under the Chubb Policy for the losses, damages, and expenses caused by the COVID-19 pandemic and referenced Orders.

39. Defendants Chubb and Federal, have denied and/or refused to acknowledge coverage for the losses, damages, and expenses of Plaintiff, Bowser, caused by the COVID-19 pandemic and the referenced Orders.

40. Plaintiff, Bowser, is entitled to recover for losses, damages, and expenses covered by the COVID-19 pandemic and the referenced Orders under the Chubb Policy.

41. Defendants, Chubb and Federal, have wrongfully refused to provide coverage to Plaintiff, Bowser, under the Chubb Policy.

42. The denial and refusal to acknowledge coverage to Plaintiff, Bowser, under the Chubb Policy is a material breach of that policy.

43. The denial and refusal to acknowledge coverage to Plaintiff, Bowser, under the Chubb Policy is in direct violation of the specific terms and provisions of the Chubb Policy.

44. Plaintiff, Bowser, is entitled to a declaration that he is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders.

45. The controversy poses an issue for judicial determination under the Declaratory Judgment Act.

46. The controversy involves substantial rights of the parties to the action.

47. The controversy poses an issue for judicial determination which is not within the scope of authority of any arbitrator or arbitration panel pursuant to the policy of insurance in question.

48. A judgment of this court in this action will also be useful for the purpose of clarifying and settling the legal relations at issue between the parties.

49. A judgment of this court will determine, terminate and afford relief from the uncertainty and controversy giving rise to this action.

WHEREFORE, Plaintiff, Bowser Automotive, Inc., respectfully requests that the Court enter an Order:

- (a) declaring that Plaintiff, Bowser Automotive, Inc., is entitled to coverage for losses, damages, and expenses caused by the COVID-19 pandemic and the referenced Orders from Defendants, Chubb Group of Insurance Companies and Federal Insurance Company;
- (b) such other relief as the court deems appropriate.



Respectfully Submitted:

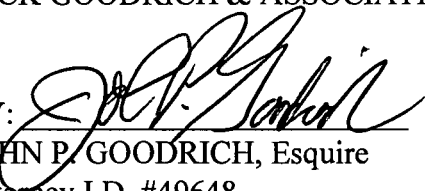
HAGGERTY, GOLDBERG, SCHLEIFER &  
KUPERSMITH, P.C.

BY: \_\_\_\_\_  
JAMES C. HAGGERTY, Esquire  
PA Attorney I.D. # 30003  
1835 Market Street, Suite 2700  
Philadelphia, PA 19103  
(267) 350-6600

SCHMIT KRAMER, P.C.

BY: \_\_\_\_\_  
SCOTT B. COOPER, Esquire  
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209 State Street  
Harrisburg, PA 17101  
(717) 232-6300

JACK GOODRICH & ASSOCIATES

BY:   
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