

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

Haisous, LLC)	
)	Case No. 20-cv-04286
Plaintiffs,)	
)	JURY TRIAL DEMANDED
v.)	
)	
State Auto Property and Casualty Insurance)	
Company)	
)	
Defendant.)	

COMPLAINT

Plaintiff, Haisous LLC (“Haisous”), through its attorneys, David B. Goodman, Jacqueline Carroll, and Kalli K. Nies, Goodman Law Group | Chicago, *of counsel*, states as its complaint against Defendant State Auto Property and Casualty Insurance Company (“State”) as follows:

NATURE OF THE ACTION

1. Haisous brings this action to enforce its rights under an insurance policy issued to it by State numbered BOP291576502 (the “Policy”). A copy of the Policy, including the endorsements to it, is attached as **Exhibit 1**. On or about April 12, 2019, the Policy was renewed to provide coverage for the policy period from June 22, 2019 through June 22, 2020. **Exhibit 2**.

2. Haisous is a James Beard nominated semi-finalist, Michelin Bib Gourmand recognized, critically acclaimed dine-in Vietnamese café (the “Restaurant”) in the Pilsen neighborhood of Chicago.

3. Haisous operates a second concept of the Restaurant, referred to as Ca Phe Da (the “Café”) at the same premises as the Restaurant. The Restaurant is a scheduled premises for business interruption insurance coverage under the Policy.

4. Haisous operates a third concept of the Restaurant at the Time Out Market on Fulton Street in Chicago, Illinois.

5. Haisous' operations at the three restaurants consist almost exclusively of in-restaurant dining.

6. Haisous operates its business at each of the three variations of the Haisous Restaurant at premises scheduled for business interruption insurance coverage under the Policy.

7. Illinois' governor as well as state and local health and municipal authorities entered orders mandating that restaurants and bars cease or limit their in-restaurant dining operations for (the "Orders") in light of the Coronavirus global pandemic ("Covid-19").

8. Covid-19 is a virus that is transmitted directly from person to person and by contact with contaminated surfaces. Surfaces can be contaminated with the virus by touch and through aerosolization.

9. Consequently, state and local officials determined that contamination of surfaces and the air with Covid-19 was inherent when people gathered together in enclosed spaces.

10. Consequently, state and local officials designed the Orders as measures necessary to contain the spread of Covid-19 including through the entry of orders restricting the number of people permitted to come together in enclosed spaces, including in restaurants and bars.

11. As a consequence of the Orders, Haisous was required to suspend its operations at each of the three insured Haisous locations during the periods encompassed by each of the Orders.

12. Compliance with the Orders deprived Haisous or materially limited Haisous of physical access to each of the insured locations at which it conducted its operations.

13. The loss of access to the property resulted in a physical loss of Haisous' insured properties and an actual loss of business income resulting from the necessary suspension of its operations.

14. Haisous' Policy provides coverage for all non-excluded risk of loss including for loss of business income, extended business income, extra expenses, inventory, and consequential damages resulting from the physical loss of property due to the lack of access caused by the Orders.

15. Haisous' Policy provides coverage resulting from the loss of use of the premises for the Haisous' operations as a dine-in restaurant as a result of the Orders.

16. Haisous timely-tendered the claims arising from the physical loss of its insured locations due to its inability to access the properties to conduct its dine-in operations. Haisous also timely tendered the claims arising from the loss of use of its property due to the Orders (collectively, the "Claims").

17. State breached its obligations under the Policy to Haisous by denying Haisous' claims for loss of business income, extended business income, extra expenses, inventory, and consequential damages resulting from its loss or limitation of physical access to the insured premises.

18. Through this Complaint, Haisous seeks to recover the damages it has incurred arising from State's improper denial of Haisous' Claims and from State's failure to meet its contractual obligations to Haisous owed under the Policy arising from the loss of business income, extended business income, extra expenses, inventory, and and other insured losses caused by the Orders.

19. Additionally, Haisous seeks declaratory relief pursuant to 28 U.S.C. § 2201 concerning the obligations owed to it by State in connection with the Claims and its continuing losses as a result of the physical loss of the property and the Orders.

20. Finally, Haisous seeks to recover damages against State pursuant to Illinois Insurance Code §155 as a consequence of State's bad faith in its failure to pay and undertake a reasonable investigation of the Claims.

THE PARTIES

21. Haisous is an Illinois limited liability company organized under the laws of the State of Illinois conducting its operations at 1800 South Carpenter Street, Chicago, IL 60608 (the "Property"). The Property is identified as a "scheduled premises" in the Policy.

22. Haisous has three members: (1) Danielle Pizzutillo, an individual who is a citizen of the State of Illinois; (2) Thai Dang, an individual who is a citizen of the State of Illinois; and (3) Kenny Dang, an individual who is a citizen of the Commonwealth of Virginia.

23. Consequently, Haisous is a citizen of the State of Illinois and of the Commonwealth of Virginia, as its members are citizens of the State of Illinois and of the Commonwealth of Virginia.

24. State is a corporation organized under the laws of the State of Iowa with its principal place of business in West Des Moines, Iowa. Consequently, State is a citizen of the State of Iowa.

JURISDICTION AND VENUE

25. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) as there is complete diversity of citizenship between the parties, as Plaintiff Haisous is a citizen of

the State of Illinois and of the Commonwealth of Virginia; Defendant State is a citizen of the State of Iowa; and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

26. The venue in this judicial district is proper pursuant to 28 U.S.C. §1391(b) as a substantial part of the events and omissions giving rise to the claims that are the subject to this litigation occurred within this judicial district.

FACTS COMMON TO ALL COUNTS

27. Haisous has operated a restaurant in Chicago, IL since 2014. Haisous runs the Café at the same location as the Restaurant. Additionally, Haisous operates a third restaurant concept at the Time Out Market, an insured location, at 916 W Fulton Market, Chicago, IL 60607, (“Haisous Fulton Market”) (collectively the “Haisous Restaurants”).

28. Due to the Orders executed by Governor Pritzker, the Mayor of Chicago, and other state and local authorities in response to Covid-19, Haisous was required to suspend its operations at all three locations because it could not use the insured properties to offer dine-in services to the public.

29. Governor Pritzker entered three separate Orders mandating Haisous close for dine-in services from March 16, 2020 through June 26, 2020 and only allowed reopening with limited capacity.

30. The Governor’s orders included: Executive Order 2020-07; Executive Order 2020-10; Executive Order 2020-18; Executive Order 2020-32; Executive Order 2020-38; and Executive Order 2020-43.

31. The City of Chicago permitted limited in-house dining as of June 26, 2020 pursuant to Illinois’ Executive Order 2020-43 and Order of The Commissioner of Health of the City Of Chicago No. 2020-9 (the “June Orders”).

32. These June Orders allowed restaurants to open for limited in-house dining services.

33. As a consequence of the June Orders, Haisous was not permitted to use the insured locations for their ordinary operations and, instead, was forced to suspend its operations.

34. The restrictions imposed by the Orders and the June Orders caused Haisous to incur losses of business income, extended business income, extra expenses, inventory expenses, and consequential damages resulting from a physical loss of the use of property relating to the insured premises.

35. Prior to Covid-19, Haisous' takeout and delivery services were limited.

36. Haisous' takeout services generate substantially less business income than the dine-in services.

37. Haisous incurred extra expenses to mitigate its losses during the period it was unable to remain open for dine in services.

38. As a consequence of the Orders and the June Orders, beginning March 16, 2020, Haisous was allowed to remain open only for takeout services for the duration of the Orders leading to catastrophic business income losses, extended business income losses, extra expenses, inventory expenses, and other consequential damages.

39. Haisous incurred expenses from the loss of the food that became unusable and unmarketable as one product because customers could not enter the business due to the Orders.

40. Haisous incurred inventory expenses to secure its property in connection with the forced suspension of its operations as well as to determine the amount of its losses that resulted from Haisous' forced closures.

41. Haisous Restaurants continued to incur fixed expenses for payroll, leased equipment, and leased space while the restaurants were closed for in house dining recoverable under the Policy.

42. Haisous made a claim under the Policy in response to the covered business income losses, extended business income, extra expenses, inventory, and consequential damages that resulted from the loss of the insured property that Haisous incurred as a consequence of the Orders and the June Orders. It sought payment of its losses resulting from the lost business income, extended business income, extra expenses, inventory, and consequential damages.

43. State failed to investigate Haisous' Claims. Instead, State purported that there was no coverage for Haisous' Claims contending that Haisous did not sustain a loss of physical property.

44. State has denied all of the Illinois business income loss claims submitted to it arising from the orders entered by Illinois and local municipal officials on a generic basis without investigation.

THE INSURANCE POLICY

45. Haisous' is an insured under the Policy for the policy period encompassing the occurrences giving rise to the Claims.

46. The policy period for the Policy is June 22, 2019 through June 22, 2020.

47. "Insured" is defined in the Policy as "an insured designated in the declarations... a partnership or joint venture... a limited liability company... or an organization other than a partnership, joint venture, or limited liability company."

48. The Policy insured against any covered losses at the insured's property.

49. The Policy is an all risk insurance contract providing coverage for all risks except those specifically excluded or expressly limited by the terms of the Policy.

50. The insured's covered property is defined as:

“Covered Property: (b) Business Personal Property located in or on the buildings at the described premises or in the open (or in a vehicle) within 100 feet of the described premises, including: (1) Property you own that is used in your business.

51. The Policy covers losses of business income as defined in the Policy:

Business Income: f. Business Income (1) Business Income We 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. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

52. “Business Income” is defined as:

(i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and (b) continuing normal operating expenses incurred, including payroll. Ordinary payroll expenses mean payroll expenses for all your employees except: (a) Officers; (b) Executives; (c) Department Managers; (d) Employees under contract; and (e) Additional Exemptions shown in the Declarations as: (i) Job Classifications; or (ii) Employees. Ordinary payroll expenses include: (a) Payroll; (b) Employee benefits, if directly related to payroll; (c) FICA payments you pay; (d) Union dues you pay; and (e) Workers' compensation premiums.

53. "Operations" means your business activities occurring at the described premises.

54. "Period of restoration" begins: 72 hours after the time of direct physical loss or damage for Business Income Coverage; or (2) Immediately after the time of direct physical loss

or damage for Extra Expense Coverage; caused by or resulting from any Covered Cause of Loss at the described premises.

55. The Policy also provides coverage for Extended Business Income as defined in the Policy:

Extended Business Income is defined as “if the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of: the date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or 30 consecutive days after the date determined in (2)(a) above.

56. “Extra Expense” is defined as “expense incurred to avoid or minimize the suspension of business and to continue ‘operations’ at the described premises or to minimize the suspension of business if you cannot continue ‘operations’.”

57. The coverage for necessary Extra Expense will begin immediately after the time of that action and ends:

- (1) 3 consecutive weeks after the time of that action; or
- (2) When your Business Income coverage ends; whichever is later. The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance.

58. The Policy provides coverage for loss of inventory defined as a consequential loss or damage.

59. “Consequential Damage” means loss arising out of the part or parts of your covered business personal property that are not lost or damaged, but are unmarketable as a complete product due to a covered cause of loss resulting in physical loss or damage to your business personal property.

60. The Policy also provides coverage for “Inventory” as defined in the Policy as, “in the event of a covered loss or damage to insured property... all reasonable expenses... [the insured] incurs in: (1) the investigation of a claim or suit; or (2) the determination of the amount of loss, such as taking inventory or obtaining appraisals.

61. The Claims are claims for loss of business income, extended business income, extra expenses, inventory, and consequential damages as defined under the Policy resulting from the physical loss of Haisous’ property and the loss of the Property as a result of the Orders.

62. The Claims tendered by Haisous to State arose within the policy period of the Policy.

63. State improperly declined coverage for the Claim without any justification and any proper investigation.

64. The Claims are covered losses under the Policy.

COUNT I- BREACH OF CONTRACT
Haisous, LLC – Physical Loss

65. Haisous repeats and realleges the allegations of paragraphs 1 through 64 as the allegations of this paragraph 65.

66. The Policy is an insurance contract under which Haisous paid premiums in exchange for State’s promise to pay claims for losses covered by the Policy, including but not limited to losses of business income, extended business income, extra expenses, inventory, and consequential damages.

67. As a consequence of the physical loss of access to the insured premises arising from Haisous' inability to use its property due to the Orders, Haisous was prevented from using the insured properties as a dine-in restaurant. Consequently, it sustained an actual loss of business income due to the necessary suspension of its operations.

68. Haisous has incurred expenses to mitigate the extent of the losses arising from the Orders and June Orders.

69. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

70. State arbitrarily and without justification refused to reimburse Haisous for any losses arising from the physical loss of the Property and the losses incurred due to the Orders and the resulting suspension of business.

71. State denied claims for loss of business income, extended business income, extra expenses, inventory, and consequential damages.

72. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to the physical loss of the insured property due to the Orders or the ongoing losses resulting from the June Orders.

73. State's denial breached its obligations to Haisous, arising from the Claim under the Policy.

74. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income, extended business income, extra expenses, inventory, and consequential expenses.

WHEREFORE, Plaintiff Haisous, asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT II- Breach of Contract
Civil Authority Order Illinois Executive Order 2020-07

75. Haisous is an insured under the Policy.

76. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

77. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property other than the described premises."

78. The Policy provides coverage for business income from Civil Authority beginning "72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins."

79. Each order executed by Illinois and the City of Chicago triggered separate claims under the Policy.

80. This Civil Authority provision is an independent basis for business income coverage.

81. As a consequence of Executive Order 2020-07 entered on March 16, 2020, access to the insured premises was prohibited due to the physical loss of property surrounding the insured premises due to civil authority.

82. Per the order, Illinois required residents to remain in their homes unless leaving for an essential function.

83. In-house restaurant dining and traveling to and from restaurants for in house dining was not deemed essential.

84. Because residents could not travel to and from Haisous' restaurants or dine in at Haisous' restaurants, the prohibited access to the property surrounding Haisous as a result of civil authority resulted in a direct physical loss of the insured premises.

85. Haisous sustained loss of business income and extra expenses incurred as a result of the Executive Order.

86. Haisous timely tendered its claims for business income and extra expenses resulting from Executive Order 2020-07.

87. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

88. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between March 16, 2020 and the following three weeks due to the civil authority order.

89. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

90. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Executive Order 2020-07.

91. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

92. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of Executive Order 2020-07.

WHEREFORE, Plaintiff Haisous, asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT III- BREACH OF CONTRACT
Civil Authority Order Illinois Executive Order 2020-10

93. Haisous is an insured under the Policy.

94. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

95. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property other than the described premises."

96. The Policy provides coverage for business income from Civil Authority beginning "72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins."

97. Each order executed by Illinois and the City of Chicago triggered separate claims under the Policy.

98. This Civil Authority provision is an independent basis for business income coverage.

99. As a consequence of Executive Order 2020-10 entered on March 20, 2020, access to the insured premises was prohibited due to the physical loss of property surrounding the insured premises due to civil authority.

100. Per the order, Illinois required residents to remain in their homes unless leaving for an essential function.

101. In-house restaurant dining and traveling to and from restaurants for in house dining was not deemed essential.

102. Because residents could not travel to and from Haisous' restaurants or dine in at Haisous' restaurants, the prohibited access to the property surrounding Haisous as a result of civil authority resulted in a direct physical loss of the insured premises.

103. Haisous sustained loss of business income and extra expenses incurred as a result of the Executive Order.

104. Haisous timely tendered its claims for business income and extra expenses resulting from Executive Order 2020-10.

105. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

106. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between March 20, 2020 and the following three weeks due to the civil authority order.

107. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

108. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Executive Order 2020-10.

109. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

110. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of Executive Order 2020-10.

WHEREFORE, Plaintiff, Haisous asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT IV- BREACH OF CONTRACT
Civil Authority Order Illinois Executive Order 2020-18

111. Haisous is an insured under the Policy.

112. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

113. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property other than the described premises."

114. The Policy provides coverage for business income from Civil Authority beginning "72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins."

115. This Civil Authority provision is an independent basis for business income coverage.

116. As a consequence of Executive Order 2020-18 entered on April 1, 2020, access to the insured premises was prohibited due to the physical loss of property surrounding the insured premises due to civil authority.

117. Per the order, Illinois required residents to remain in their homes unless leaving for an essential function.

118. In-house restaurant dining and traveling to and from restaurants for in house dining was not deemed essential.

119. Because residents could not travel to and from Haisous' restaurants or dine in at Haisous' restaurants, the prohibited access to the property surrounding Haisous as a result of civil authority resulted in a direct physical loss of the insured premises.

120. Haisous sustained loss of business income and extra expenses incurred as a result of the Executive Order.

121. Haisous timely tendered its claims for business income and extra expenses resulting from Executive Order 2020-18.

122. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

123. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between April 1, 2020 and the following three weeks due to the civil authority order.

124. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

125. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Executive Order 2020-18.

126. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

127. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of Executive Order 2020-18.

WHEREFORE, Plaintiff Haisous asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT V- BREACH OF CONTRACT
Civil Authority Order Illinois Executive Order 2020-32

128. Haisous is an insured under the Policy.

129. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

130. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property other than the described premises."

131. The Policy provides coverage for business income from Civil Authority beginning "72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins."

132. Each order executed by Illinois and the City of Chicago triggered separate claims under the Policy.

133. This Civil Authority provision is an independent basis for business income coverage.

134. As a consequence of Executive Order 2020-32 entered on April 30, 2020, access to the insured premises was prohibited due to the physical loss of property surrounding the insured premises due to civil authority.

135. Per the order, Illinois required residents to remain in their homes unless leaving for an essential function.

136. In-house restaurant dining and traveling to and from restaurants for in house dining was not deemed essential.

137. Because residents could not travel to and from Haisous' restaurants or dine in at Haisous' restaurants, the prohibited access to the property surrounding Haisous as a result of civil authority resulted in a direct physical loss of the insured premises.

138. Haisous sustained loss of business income and extra expenses incurred as a result of the Executive Order.

139. Haisous timely tendered its claims for business income and extra expenses resulting from Executive Order 2020-32.

140. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

141. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between April 30, 2020 and the following three weeks due to the civil authority order.

142. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

143. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Executive Order 2020-32.

144. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

145. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of Executive Order 2020-32.

WHEREFORE, Plaintiff Haisous asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT VI- BREACH OF CONTRACT
Civil Authority Order Illinois Executive Order 2020-38

146. Haisous is an insured under the Policy.

147. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

148. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property other than the described premises."

149. The Policy provides coverage for business income from Civil Authority beginning "72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins."

150. Each order executed by Illinois and the City of Chicago triggered separate claims under the Policy.

151. This Civil Authority provision is an independent basis for business income coverage.

152. As a consequence of Executive Order 2020-38 entered on May 29, 2020, access to the insured premises was prohibited due to the physical loss of property surrounding the insured premises due to civil authority.

153. Per the order, Illinois required residents to remain in their homes unless leaving for an essential function.

154. In-house restaurant dining and traveling to and from restaurants for in house dining was not deemed essential.

155. Because residents could not travel to and from Haisous' restaurants or dine in at Haisous' restaurants, the prohibited access to the property surrounding Haisous as a result of civil authority resulted in a direct physical loss of the insured premises.

156. Haisous sustained loss of business income and extra expenses incurred as a result of the Executive Order.

157. Haisous timely tendered its claims for business income and extra expenses resulting from Executive Order 2020-38.

158. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

159. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between May 29, 2020 and the following three weeks due to the civil authority order.

160. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

161. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Executive Order 2020-38.

162. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

163. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of Executive Order 2020-38.

WHEREFORE, Plaintiff Haisous asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT VII- BREACH OF CONTRACT
Civil Authority Order Illinois Executive Order 2020-43

164. Haisous is an insured under the Policy.

165. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

166. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss or damage to property other than the described premises."

167. The Policy provides coverage for business income from Civil Authority beginning “72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins.”

168. Each order executed by Illinois and the City of Chicago triggered separate claims under the Policy.

169. This Civil Authority provision is an independent basis for business income coverage.

170. As a consequence of Executive Order 2020-43 entered on June 26, 2020, access to the insured premises was prohibited due to the physical loss of property surrounding the insured premises due to civil authority.

171. Per the order, Illinois required residents to remain in their homes unless leaving for an essential function.

172. In-house restaurant dining and traveling to and from restaurants for in house dining was not deemed essential.

173. Because residents could not travel to and from Haisous’ restaurants or dine in at Haisous’ restaurants, the prohibited access to the property surrounding Haisous as a result of civil authority resulted in a direct physical loss of the insured premises.

174. Haisous sustained loss of business income and extra expenses incurred as a result of the Executive Order.

175. Haisous timely tendered its claims for business income and extra expenses resulting from Executive Order 2020-43.

176. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

177. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between June 26, 2020 and the following three weeks due to the civil authority order.

178. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

179. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Executive Order 2020-43.

180. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

181. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of Executive Order 2020-43.

WHEREFORE, Plaintiff Haisous asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT VIII- BREACH OF CONTRACT

Civil Authority Order

Order of The Commissioner of Health of the City of Chicago No. 2020-9

182. Haisous is an insured under the Policy.

183. The Policy is an insurance contract under which Haisous paid premiums in exchange for State's promise to pay claims for losses covered by the Policy, including but not limited to losses of business income and extra expenses as a result of Civil Authority.

184. The Policy provides coverage for losses due to "Civil Authority" for "the actual loss of Business Income and Extra Expense caused by action of civil authority that prohibits

access to the described premises due to direct physical loss or damage to property other than the described premises.”

185. The Policy provides coverage for business income from Civil Authority beginning “72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins.”

186. Each order executed by Illinois and the City of Chicago triggered separate claims under the Policy.

187. This Civil Authority provision is an independent basis for business income coverage.

188. As a consequence of the Order of The Commissioner of Health of the City Of Chicago No. 2020-9 entered on June 26, 2020, access to the insured premises was limited.

189. Per the order, Chicago substantially restricted the number of patrons and precluded dining within the insured premises. Haisous does not have an area that accommodates outside dining.

190. Because residents could not wait at Haisous’ restaurants or dine indoors at Haisous’ restaurants at its normal capacity, the prohibited and limited, access to the property surrounding Haisous as a result of civil authority order resulted in a direct physical loss of the insured premises.

191. Haisous sustained loss of business income and extra expenses incurred as a result of the Order of The Commissioner of Health of the City Of Chicago No. 2020-9.

192. Haisous timely tendered its claims for business income and extra expenses resulting from Order of The Commissioner of Health of the City Of Chicago No. 2020-9.

193. Haisous complied with all applicable provisions of the Policy, including payment of premiums.

194. State arbitrarily and without justification refused to reimburse Haisous for any business income losses or extra expenses incurred between June 26, 2020 and the following three weeks due to the civil authority order.

195. State denied Haisous' Claims for loss of business income and extra expense as a result of the civil authority order.

196. Haisous' Policy does not contain any exclusion that would apply to allow State to deny coverage for losses caused by the interruption of Haisous' business due to Order of The Commissioner of Health of the City Of Chicago No. 2020-9.

197. State's denial breached its obligations to Haisous, arising from the Claims under the Policy.

198. Haisous sustained damages resulting from State's breach of its contractual obligations to Haisous, including loss of business income and extra expenses as a result of the Order of The Commissioner of Health of the City Of Chicago No. 2020-9.

WHEREFORE, Plaintiff Haisous asks for judgment in its favor and against Defendant State for the damages that it proves at trial and for such other relief as this Court deems just.

COUNT IX- DECLARATORY JUDGMENT

199. Haisous repeats and realleges the allegations of paragraphs 1 through 64 as the allegations of this paragraph 199.

200. The restrictions on Haisous' use of the insured property as a consequence of the Orders is a loss of physical property.

201. The loss of physical property sustained by Haisous as a result of the Orders required Haisous to suspend its operations at the insured locations.

202. The limits imposed as a result of the Orders continue to result in a suspension of Haisous' operations at the insured locations.

203. Haisous will continue to incur business income losses as a result of Illinois' Orders and seeks a judgment as to State's contractual obligations to Haisous moving forward.

204. A justiciable controversy exists between Haisous and State with respect to State's obligations to Haisous under the Policy in connection with the Claims and future losses.

WHEREFORE, Haisous asks this Court for judgment in its favor and against State finding that State has an obligation to indemnify Haisous for any loss and expenses arising from or incurred in connection with the Claims and for such other relief as this Court deems just.

**COUNT IX- BAD FAITH PURSUANT TO
SECTION 155 OF THE ILLINOIS INSURANCE CODE**

205. Haisous repeats and realleges the allegations of paragraphs 1 through 64 as the allegations of this paragraph 205.

206. Pursuant to 215 ILCS 5/155, in any action by or against an insurance company in which there is a finding that the insurance company acted in a vexatious and unreasonable manner in the settlement of the claim, the Court may award a statutory penalty as well as the reasonable attorney's fees and costs incurred by the insured to prosecute its claim against the insurance company.

207. State failed to investigate Haisous' claims.

208. Instead, State asserted a uniform coverage position denying claims made by its insureds relating to the Orders entered in response to Covid-19 without investigation.

209. State's conduct with respect to Haisous' claims for coverage was and continues to be unreasonable and vexatious by refusing to reimburse Haisous for covered losses under the Policy without proper justification and without a reasonable investigation.

WHEREFORE, Haisous respectfully requests that this Honorable Court enter judgment:

- (a) Finding that State's conduct handling the Claim violates Section 155 of the Illinois Insurance Code;
- (b) Awarding Haisous its reasonable attorneys' fees incurred pursuing coverage from State as part of its taxable costs in this action;
- (c) Awarding Haisous a penalty of \$60,000 (or the maximum amount allowed by Section 155 at the time of judgment) to be assessed against State;
- (d) Awarding Haisous prejudgment interest on its attorneys' fees; and
- (e) For such other and further relief that this Honorable Court deems appropriate and just.

JURY TRIAL DEMAND

Haisous hereby demands a trial by jury in the above-captioned action pursuant to Federal Rule of Civil Procedure 38(b).

Respectfully submitted,

Haisous LLC

By: /s/ David B. Goodman
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