

IN THE CIRCUIT COURT OF THE EIGHTH
JUDICIAL CIRCUIT IN AND FOR
ALACHUA COUNTY, FLORIDA

CASE NUMBER: 2020 CA 002326
DIV: J

WEBB DENTAL ASSOCIATES DMD PA
AND TANGLED WEBB PROPERTIES d/b/a
GENTLE DENTAL CARE,

PLAINTIFF,
VS.

THE CINCINNATI INDEMNITY COMPANY,

DEFENDANT.

_____ /

COMPLAINT & DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, Webb Dental Associates DMD PA and Tangled Webb Properties d/b/a Gentle Dental Care, by and through the undersigned attorney, and sues the Defendant, The Cincinnati Indemnity Company, and alleges as follows:

1. This is an action for breach of contract with damages more than Thirty Thousand Dollars (\$30,000.00), exclusive of interest, costs, and attorney's fees.
2. At all material times hereto, the Plaintiff, Webb Dental Associates DMD PA and Tangled Webb Properties d/b/a Gentle Dental Care, (hereinafter "Plaintiff") was and is a Florida corporation with its principal place of business in Florida.
3. At all material times hereto, Defendant, The Cincinnati Indemnity Company, was a corporation duly licensed to transact insurance business in the State of Florida. Defendant does business, has offices, and/or maintained agents for the transaction of its customary business in Alachua County, Florida.

4. Pursuant to the State of Florida Executive Order Number 20-72 dated March 20, 2020, which states in part, ... “all...dental, orthodontic and endodontic offices, and other healthcare practitioners’ offices in the State of Florida are prohibited from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery....all healthcare practitioners in the State of Florida including dentists, shall immediately cease performing these elective services,” Plaintiff was forced to immediately ceased to operate the dental business until further order of the governor.
5. Prior to March 16, 2020, the Insured sought and purchased property insurance from Defendant to cover their property located at 3655 SW 2nd Avenue, Gainesville, FL 32607 (hereinafter “Insured’s Property”). Said policy of insurance, which is believed to be policy number ENP 055 45 12 (hereinafter “Insured’s Policy”), was issued by Defendant to Insured to provide insurance coverage which included, but was not limited to, coverage afforded to protect Insured’s Property against business interruption from a mandated government order.
6. Insured’s Policy was issued by Defendant to Insured and was in full force and effect as of March 16, 2020. A formal copy of the Insured’s Policy is not currently in the possession of Plaintiff, but is well known to Defendant, and has been requested by Plaintiff through a Request to Produce (which has been served upon Defendant contemporaneously with this Complaint). See: Equity Premium, Inc. v. Twin City Fire Ins. Co., 956 So.2d 1257 (Fla 4th DCA 2007); Amiker v. Mid-Century Ins. Co., 398 So.2d 974 (Fla 1st DCA 1981); Parkway General Hospital, Inc. v. Allstate Ins. Co., 393 So.2d 1171 (Fla. 3rd DCA 1981) and Sasche v. Tampa Music Co., 262 So.2d 17(Fla. 2nd DCA 1972).
7. On or about March 16, 2020, Insured’s Business located at 3655 SW 2nd Avenue,

Gainesville, FL 32607, suffered monetary damages by the interruption of business mandates by Governor DeSantis' executive order. The loss of business income, was covered under Insured's Policy issued by Defendant to Insured, and was assigned claim number 3520347.

8. Plaintiff has submitted reasonable wage loss claim for the services loss due to the mandated shut down to Defendant and has been unpaid by Defendant for the same.
9. Plaintiff has continued to incur business expenses, including but not limited to staff payroll, inventory, utilities, and other expenses relating to the maintenance of the dental business without the ability to provide services in order to continue paying these normal business expenses. This is an action related to Defendant's breach of contract and failure to pay full value for damages sustained by Plaintiff.
10. Jurisdiction and venue of this matter are proper in Circuit Court for Alachua County, Florida.

COUNT I-BUSINESS INTERRUPTION
BREACH OF CONTRACT

COMES NOW the Plaintiff, Webb Dental Associates DMD PA and Tangled Webb Properties d/b/a Gentle Dental Care, by and through undersigned counsel, sues the Defendant, Main Street America Protection Insurance Company, and alleges as follows:

11. The Plaintiff does hereby repeat and re-allege Paragraphs 1 through 10 above, and incorporates the same by reference herein.
12. The Insured is a named insured under the property insurance policy of the Insured (the Insured's Policy described above) and said policy was in full force and effect as to the Insured at all times material to this Complaint, including when Insured's Property was damaged as described above.

13. Plaintiff has complied with all conditions precedent to this lawsuit and to entitle Plaintiff to recover under the Insured's Policy, or any such conditions have been waived.
14. Despite demand for payment, Defendant has failed or refused to pay all of Plaintiff's bill(s).
15. Defendant's refusal to reimburse Plaintiff adequately for contracted services provided, and otherwise make Plaintiff whole, constitutes a breach of contract.
16. Plaintiff has been damaged as a result of Defendant's breach in the form of insurance proceeds which have not been paid, interest, costs, and attorney's fees.
17. Plaintiff has been and remains fully prepared to comply with all of the obligations pursuant to the aforesaid contract of insurance.
18. As a result of Defendant's aforementioned breach of contract, it has become necessary that Plaintiff retain the services of the undersigned attorneys pursuant to Fla. Stat. § 627.428. Plaintiff is obligated to pay a reasonable fee for the undersigned attorneys' services in bringing this action, plus necessary costs.
19. Plaintiff is entitled to recover attorney's fees and costs under Fla. Stat. §627.428.

WHEREFORE, Plaintiff, Webb Dental Associates DMD PA and Tangled Webb Properties d/b/a Gentle Dental Care, by and through the undersigned counsel, demands judgment against Defendant, Main Street America Protection Insurance Company, for all unpaid bills with interest on any overdue payments, costs, attorney fees pursuant to Fla. Stat. § 627.428, and for all other remedies the Court sees fit to grant, and Plaintiff demands trial by jury.

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that a true and correct copy of this document was served to all counsels of record on August 31, 2020.

/s/ Caleb Payne
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