

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

Bel Air Auto Auction, Inc., 4805 Philadelphia Road, Belcamp, Maryland 21017 (Harford County)

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Lawrence J. Gebhardt, Gebhardt & Smith LLP One South Street, Suite 2200, Baltimore, MD 21202 (410) 385-5100

DEFENDANTS

Great Northern Insurance Company, 202B Halls Mill Road, Whitehouse Station, New Jersey 08889

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

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

Attorneys (If Known)

For Great Northern: Gabriela Richeimer, Clyde & Co US LLP 1775 Pennsylvania Ave. NW, Suite 400, Washington, DC 20006 (202) 747-5100

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Property, etc.

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, 1446

Brief description of cause: Insurance dispute for declaratory judgment removed from Circuit Court for Harford County

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: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 10/07/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Gabriela Richeimer

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

BEL AIR AUTO AUCTION, INC.,  
4805 Philadelphia Road  
Belcamp, Maryland 21017 (Harford County)

Plaintiff,

v.

GREAT NORTHERN INSURANCE COMPANY,  
202B Hall's Mill Road,  
Whitehouse Station, New Jersey 08889

Defendant.

Case No. \_\_\_\_\_

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Great Northern Insurance Company (“Great Northern”), by undersigned counsel, and without waiving its affirmative or any other defenses, hereby removes this action from the Circuit Court for Harford County, Maryland, where it is pending as Case No. C-12-CV-20-000596, to the United States District Court for the District of Maryland. In support of removal, Great Northern states as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between plaintiff Bel Air Auto Auction, Inc. (“Bel Air”) and defendant Great Northern, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. This action may therefore be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

2. Plaintiff Bel Air is now, and was at the time this action was commenced, a corporation organized under the laws of Maryland with its principal place of business in Harford County, Maryland.

3. Defendant Great Northern, the only defendant in the action following the voluntary dismissal of Chubb Limited and the filing of the amended complaint, is now, and was at the time this action was commenced, a corporation organized under the laws of Indiana with its principal place of business in Whitehouse Station, New Jersey.

4. The amount in controversy exceeds \$75,000. Bel Air's Amended Complaint for Declaratory Judgment ("Amended Complaint") seeks declaratory relief to determine its rights, if any, to coverage under a commercial property insurance policy issued by Great Northern after Great Northern denied coverage. Although Bel Air has not pleaded a specific amount of damages, it is seeking insurance coverage (and payment) from Great Northern for claimed business interruption losses significantly exceeding the \$75,000 threshold for federal court jurisdiction. Specifically, Bel Air is seeking coverage under a policy with various allegedly relevant limits of liability that exceed \$75,000, including a "Business Income with Extra Expenses" limit of \$38 million for the Premises at 4805 Philadelphia Road identified in the Complaint as plaintiff's primary address. *See* Amend. Compl. ¶ 19 & Ex. 1 ("Policy") at CHUBB 000023. The Amended Complaint further alleges that "Bel Air Auto Auction processes over 100,000 vehicles per year." Amend. Compl. ¶ 20. The Complaint alleges that over the last six-plus months, since the State of Maryland has limited in-person business

operations, Bel Air’s “[v]ehicle sales have been drastically diminished and reduced, as have the related services provided by Bel Air Auto Auction at its facility” and that Bel Air’s “income from its business and operations has been actually and substantially impaired.” *Id.* ¶¶ 26–27. These amounts claimed as losses under the Policy (and disputed by Great Northern) are many multiples of this Court’s jurisdictional threshold.

5. Venue is proper in this federal judicial district and division. *See* 28 U.S.C. §§ 127(a); 1441(a). This action was originally filed in the Circuit Court for Harford County. The United States District Court for the District of Maryland, Northern Division is the federal judicial district in which the Circuit Court for Harford County sits.

6. This Notice of Removal is filed within 30 days of receipt by Great Northern of the initial pleadings by service and is therefore timely pursuant to 28 U.S.C. § 1446(b). As noted in the attached documents, including the Affidavit of Service for Great Northern, service was effected no sooner than September 8, 2020.

7. True and correct copies of the Complaint, the Amended Complaint, and all process, pleadings and orders filed in the state-court action are attached as Exhibits 1 (Civil Information Report, Writ of Summons, and Complaint with exhibits 1–4); 2 (Demand for Jury Trial); 3 (Request to Issue Summons); 4 (Affidavit of Service – Chubb Limited); 5 (Affidavit of Service – Great Northern); 6 (Notice of Voluntary Dismissal of Chubb Limited); and 7 (Amended

Complaint for Declaratory Judgment, with Exhibit A (redline to original complaint)).

8. Great Northern promptly will give written notice of this Notice of Removal to all adverse parties and will file a copy of the notice with the clerk of the Circuit Court for Harford County, Maryland as required by 28 U.S.C. § 1446(d).

9. If any questions arise as to the propriety of the removal of this action, then Great Northern requests the opportunity to conduct limited jurisdictional discovery and to present a brief and argument in support of removal.

WHEREFORE, defendant Great Northern Insurance Company, pursuant to 28 U.S.C. § 1441 and in conformance with the requirements set forth in 28 U.S.C. § 1446(b) and the Rules of the U.S. District Court for the District of Maryland, removes this action for trial from the Circuit Court for Harford County, Maryland.

Dated: October 7, 2020

Respectfully submitted,

/s/ Gabriela Richeimer

Gabriela Richeimer (Bar No. 15774)

M. Addison Draper (Bar No. 18387)

Clyde & Co US LLP

1775 Pennsylvania Ave. NW, Suite 400

Washington, DC 20006

(202) 747-5100

[gabriela.richeimer@clydeco.us](mailto:gabriela.richeimer@clydeco.us)

[addison.draper@clydeco.us](mailto:addison.draper@clydeco.us)

*Attorneys for Great Northern Insurance  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2020, the foregoing Notice of Removal was filed electronically with the Court using the CM/ECF system. A copy of the Notice of Removal also was served via email and U.S. Mail, with adequate first-class postage affixed thereto, to the following:

Lawrence J. Gebhardt  
GEBARDT & SMITH LLP  
One South Street, Suite 2200  
Baltimore, Maryland 21202  
lgebh@gebsmith.com

/s/ Gabriela Richeimer  
Gabriela Richeimer (Bar No. 15774)

# EXHIBIT 1

IN THE CIRCUIT COURT FOR Harford County (City or County)

**CIVIL - NON-DOMESTIC CASE INFORMATION REPORT**

**DIRECTIONS**

**Plaintiff:** This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a).

**Defendant:** You must file an Information Report as required by Rule 2-323(h).

**THIS INFORMATION REPORT CANNOT BE ACCEPTED AS A PLEADING**

FORM FILED BY:  PLAINTIFF  DEFENDANT CASE NUMBER C-12-CV-20-000596  
(Clerk to insert)

CASE NAME: Bel Air Auto Auction, Inc. vs. Chubb Limited, et al.  
Plaintiff Defendant

PARTY'S NAME: Bel Air Auto Auction, Inc. PHONE: \_\_\_\_\_

PARTY'S ADDRESS: 4805 Philadelphia Rd., Belcamp, MD 21017

PARTY'S E-MAIL: \_\_\_\_\_

**If represented by an attorney:**

PARTY'S ATTORNEY'S NAME: Lawrence J. Gebhardt PHONE: 410-385-5100

PARTY'S ATTORNEY'S ADDRESS: Gebhardt & Smith, 1 South St., Ste 2200, Baltimore, MD 21202

PARTY'S ATTORNEY'S E-MAIL: lgebh@gebsmith.com

JURY DEMAND?  Yes  No

RELATED CASE PENDING?  Yes  No If yes, Case #(s), if known: \_\_\_\_\_

ANTICIPATED LENGTH OF TRIAL?: \_\_\_\_\_ hours \_\_\_\_\_ days

**PLEADING TYPE**

New Case:  Original  Administrative Appeal  Appeal

Existing Case:  Post-Judgment  Amendment

If filing in an existing case, skip Case Category/ Subcategory section - go to Relief section.

**IF NEW CASE: CASE CATEGORY/SUBCATEGORY (Check one box.)**

- |  |  |   |   |
|--|--|---|---|
| <p><b>TORTS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Asbestos</li> <li><input type="checkbox"/> Assault and Battery</li> <li><input type="checkbox"/> Business and Commercial</li> <li><input type="checkbox"/> Conspiracy</li> <li><input type="checkbox"/> Conversion</li> <li><input type="checkbox"/> Defamation</li> <li><input type="checkbox"/> False Arrest/Imprisonment</li> <li><input type="checkbox"/> Fraud</li> <li><input type="checkbox"/> Lead Paint - DOB of Youngest Plt: _____</li> <li><input type="checkbox"/> Loss of Consortium</li> <li><input type="checkbox"/> Malicious Prosecution</li> <li><input type="checkbox"/> Malpractice-Medical</li> <li><input type="checkbox"/> Malpractice-Professional</li> <li><input type="checkbox"/> Misrepresentation</li> <li><input type="checkbox"/> Motor Tort</li> <li><input type="checkbox"/> Negligence</li> <li><input type="checkbox"/> Nuisance</li> <li><input type="checkbox"/> Premises Liability</li> <li><input type="checkbox"/> Product Liability</li> <li><input type="checkbox"/> Specific Performance</li> <li><input type="checkbox"/> Toxic Tort</li> <li><input type="checkbox"/> Trespass</li> <li><input type="checkbox"/> Wrongful Death</li> </ul> <p><b>CONTRACT</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Asbestos</li> <li><input type="checkbox"/> Breach</li> <li><input type="checkbox"/> Business and Commercial</li> <li><input type="checkbox"/> Confessed Judgment</li> </ul> <p>(Cont'd)</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Construction</li> <li><input type="checkbox"/> Debt</li> <li><input type="checkbox"/> Fraud</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Government</li> <li><input checked="" type="checkbox"/> Insurance</li> <li><input type="checkbox"/> Product Liability</li> </ul> <p><b>PROPERTY</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Adverse Possession</li> <li><input type="checkbox"/> Breach of Lease</li> <li><input type="checkbox"/> Detinue</li> <li><input type="checkbox"/> Distress/Distrain</li> <li><input type="checkbox"/> Ejectment</li> <li><input type="checkbox"/> Forcible Entry/Detainer</li> <li><input type="checkbox"/> Foreclosure</li> <li><input type="checkbox"/> Commercial</li> <li><input type="checkbox"/> Residential</li> <li><input type="checkbox"/> Currency or Vehicle</li> <li><input type="checkbox"/> Deed of Trust</li> <li><input type="checkbox"/> Land Installments</li> <li><input type="checkbox"/> Lien</li> <li><input type="checkbox"/> Mortgage</li> <li><input type="checkbox"/> Right of Redemption</li> <li><input type="checkbox"/> Statement Condo</li> <li><input type="checkbox"/> Forfeiture of Property / Personal Item</li> <li><input type="checkbox"/> Fraudulent Conveyance</li> <li><input type="checkbox"/> Landlord-Tenant</li> <li><input type="checkbox"/> Lis Pendens</li> <li><input type="checkbox"/> Mechanic's Lien</li> <li><input type="checkbox"/> Ownership</li> <li><input type="checkbox"/> Partition/Sale in Lieu</li> <li><input type="checkbox"/> Quiet Title</li> <li><input type="checkbox"/> Rent Escrow</li> <li><input type="checkbox"/> Return of Seized Property</li> <li><input type="checkbox"/> Right of Redemption</li> <li><input type="checkbox"/> Tenant Holding Over</li> </ul> | <p><b>PUBLIC LAW</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Attorney Grievance</li> <li><input type="checkbox"/> Bond Forfeiture Remission</li> <li><input type="checkbox"/> Civil Rights</li> <li><input type="checkbox"/> County/Mncpl Code/Ord</li> <li><input type="checkbox"/> Election Law</li> <li><input type="checkbox"/> Eminent Domain/Condemn.</li> <li><input type="checkbox"/> Environment</li> <li><input type="checkbox"/> Error Coram Nobis</li> <li><input type="checkbox"/> Habeas Corpus</li> <li><input type="checkbox"/> Mandamus</li> <li><input type="checkbox"/> Prisoner Rights</li> <li><input type="checkbox"/> Public Info. Act Records</li> <li><input type="checkbox"/> Quarantine/Isolation</li> <li><input type="checkbox"/> Writ of Certiorari</li> </ul> <p><b>EMPLOYMENT</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> ADA</li> <li><input type="checkbox"/> Conspiracy</li> <li><input type="checkbox"/> EEO/HR</li> <li><input type="checkbox"/> FLSA</li> <li><input type="checkbox"/> FMLA</li> <li><input type="checkbox"/> Workers' Compensation</li> <li><input type="checkbox"/> Wrongful Termination</li> </ul> <p><b>INDEPENDENT PROCEEDINGS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Assumption of Jurisdiction</li> <li><input type="checkbox"/> Authorized Sale</li> <li><input type="checkbox"/> Attorney Appointment</li> <li><input type="checkbox"/> Body Attachment Issuance</li> <li><input type="checkbox"/> Commission Issuance</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructive Trust</li> <li><input type="checkbox"/> Contempt</li> <li><input type="checkbox"/> Deposition Notice</li> <li><input type="checkbox"/> Dist Ct Mtn Appeal</li> <li><input type="checkbox"/> Financial</li> <li><input type="checkbox"/> Grand Jury/Petit Jury</li> <li><input type="checkbox"/> Miscellaneous</li> <li><input type="checkbox"/> Perpetuate Testimony/Evidence</li> <li><input type="checkbox"/> Prod. of Documents Req.</li> <li><input type="checkbox"/> Receivership</li> <li><input type="checkbox"/> Sentence Transfer</li> <li><input type="checkbox"/> Set Aside Deed</li> <li><input type="checkbox"/> Special Adm. - Atty</li> <li><input type="checkbox"/> Subpoena Issue/Quash</li> <li><input type="checkbox"/> Trust Established</li> <li><input type="checkbox"/> Trustee Substitution/Removal</li> <li><input type="checkbox"/> Witness Appearance-Compel</li> </ul> <p><b>PEACE ORDER</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Peace Order</li> </ul> <p><b>EQUITY</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Declaratory Judgment</li> <li><input type="checkbox"/> Equitable Relief</li> <li><input type="checkbox"/> Injunctive Relief</li> <li><input type="checkbox"/> Mandamus</li> </ul> <p><b>OTHER</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Accounting</li> <li><input type="checkbox"/> Friendly Suit</li> <li><input type="checkbox"/> Grantor in Possession</li> <li><input type="checkbox"/> Maryland Insurance Administration</li> <li><input type="checkbox"/> Miscellaneous</li> <li><input type="checkbox"/> Specific Transaction</li> <li><input type="checkbox"/> Structured Settlements</li> </ul> |
|--|--|---|---|



**IF NEW OR EXISTING CASE: RELIEF (Check All that Apply)**

- |  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> Abatement               | <input type="checkbox"/> Earnings Withholding            | <input type="checkbox"/> Judgment-Interest           | <input type="checkbox"/> Return of Property     |
| <input type="checkbox"/> Administrative Action   | <input type="checkbox"/> Enrollment                      | <input type="checkbox"/> Judgment-Summary            | <input type="checkbox"/> Sale of Property       |
| <input type="checkbox"/> Appointment of Receiver | <input type="checkbox"/> Expungement                     | <input type="checkbox"/> Liability                   | <input type="checkbox"/> Specific Performance   |
| <input type="checkbox"/> Arbitration             | <input type="checkbox"/> Findings of Fact                | <input type="checkbox"/> Oral Examination            | <input type="checkbox"/> Writ-Error Coram Nobis |
| <input type="checkbox"/> Asset Determination     | <input type="checkbox"/> Foreclosure                     | <input type="checkbox"/> Order                       | <input type="checkbox"/> Writ-Execution         |
| <input type="checkbox"/> Attachment b/f Judgment | <input type="checkbox"/> Injunction                      | <input type="checkbox"/> Ownership of Property       | <input type="checkbox"/> Writ-Garnish Property  |
| <input type="checkbox"/> Cease & Desist Order    | <input type="checkbox"/> Judgment-Affidavit              | <input type="checkbox"/> Partition of Property       | <input type="checkbox"/> Writ-Garnish Wages     |
| <input type="checkbox"/> Condemn Bldg            | <input type="checkbox"/> Judgment-Attorney Fees          | <input type="checkbox"/> Peace Order                 | <input type="checkbox"/> Writ-Habeas Corpus     |
| <input type="checkbox"/> Contempt                | <input type="checkbox"/> Judgment-Confessed              | <input type="checkbox"/> Possession                  | <input type="checkbox"/> Writ-Mandamus          |
| <input type="checkbox"/> Court Costs/Fees        | <input type="checkbox"/> Judgment-Consent                | <input type="checkbox"/> Production of Records       | <input type="checkbox"/> Writ-Possession        |
| <input type="checkbox"/> Damages-Compensatory    | <input checked="" type="checkbox"/> Judgment-Declaratory | <input type="checkbox"/> Quarantine/Isolation Order  |   |
| <input type="checkbox"/> Damages-Punitive        | <input type="checkbox"/> Judgment-Default                | <input type="checkbox"/> Reinstatement of Employment |   |

If you indicated **Liability** above, mark one of the following. This information is not an admission and may not be used for any purpose other than Track Assignment.

- Liability is conceded.  Liability is not conceded, but is not seriously in dispute.  Liability is seriously in dispute.

**MONETARY DAMAGES (Do not include Attorney's Fees, Interest, or Court Costs)**

- Under \$10,000     \$10,000 - \$30,000     \$30,000 - \$100,000     Over \$100,000

- Medical Bills \$ \_\_\_\_\_     Wage Loss \$ \_\_\_\_\_     Property Damages \$ \_\_\_\_\_

**ALTERNATIVE DISPUTE RESOLUTION INFORMATION**

Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)

- |                |   |                          |   |
|----------------|---|--------------------------|---|
| A. Mediation   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | C. Settlement Conference | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| B. Arbitration | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | D. Neutral Evaluation    | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

**SPECIAL REQUIREMENTS**

- If a Spoken Language Interpreter is needed, **check here and attach form CC-DC-041**
- If you require an accommodation for a disability under the Americans with Disabilities Act, **check here and attach form CC-DC-049**

**ESTIMATED LENGTH OF TRIAL**

*With the exception of Baltimore County and Baltimore City, please fill in the estimated **LENGTH OF TRIAL**.*

*(Case will be tracked accordingly)*

- |   |   |
|---|---|
| <input type="checkbox"/> 1/2 day of trial or less       | <input type="checkbox"/> 3 days of trial time           |
| <input checked="" type="checkbox"/> 1 day of trial time | <input type="checkbox"/> More than 3 days of trial time |
| <input type="checkbox"/> 2 days of trial time           |   |

**BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM**

*For all jurisdictions, if Business and Technology track designation under Md. Rule 16-308 is requested, attach a duplicate copy of complaint and check one of the tracks below.*

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> <b>Expedited</b> - Trial within 7 months of Defendant's response | <input type="checkbox"/> <b>Standard</b> - Trial within 18 months of Defendant's response |
|--|---|

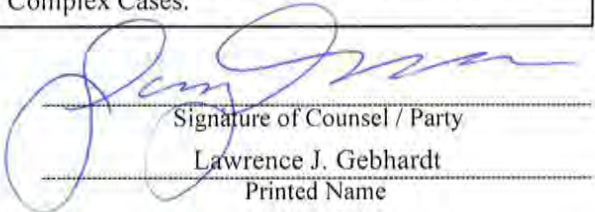
EMERGENCY RELIEF REQUESTED

<b>COMPLEX SCIENCE AND/OR TECHNOLOGICAL CASE MANAGEMENT PROGRAM (ASTAR)</b>	
<i>FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO ASTAR RESOURCES JUDGES under Md. Rule 16-302, attach a duplicate copy of complaint and check whether assignment to an ASTAR is requested.</i>	
<input type="checkbox"/> <b>Expedited</b> - Trial within 7 months of Defendant's response	<input type="checkbox"/> <b>Standard</b> - Trial within 18 months of Defendant's response
<b>IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, OR BALTIMORE COUNTY, PLEASE FILL OUT THE APPROPRIATE BOX BELOW.</b>	
<b>CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)</b>	
<input type="checkbox"/> Expedited	Trial 60 to 120 days from notice. Non-jury matters.
<input type="checkbox"/> Civil-Short	Trial 210 days from first answer.
<input type="checkbox"/> Civil-Standard	Trial 360 days from first answer.
<input type="checkbox"/> Custom	Scheduling order entered by individual judge.
<input type="checkbox"/> Asbestos	Special scheduling order.
<input type="checkbox"/> Lead Paint	Fill in: Birth Date of youngest plaintiff.....
<input type="checkbox"/> Tax Sale Foreclosures	Special scheduling order.
<input type="checkbox"/> Mortgage Foreclosures	No scheduling order.
<b>CIRCUIT COURT FOR BALTIMORE COUNTY</b>	
<input type="checkbox"/> Expedited (Trial Date-90 days)	Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
<input type="checkbox"/> Standard (Trial Date-240 days)	Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
<input type="checkbox"/> Extended Standard (Trial Date-345 days)	Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
<input type="checkbox"/> Complex (Trial Date-450 days)	Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.

August 26, 2020  
Date

Gebhardt & Smith, 1 South St., Ste. 2200  
Address

Baltimore MD 21202  
City State Zip Code

  
Signature of Counsel / Party

Lawrence J. Gebhardt  
Printed Name



**CIRCUIT COURT FOR HARFORD COUNTY,  
MARYLAND**  
20 W. Courtland Street  
Bel Air, Maryland 21014

**To:** CHUBB LIMITED  
SERVE ON: MARYLAND INSURANCE  
ADMINISTRATION  
200 ST. PAUL PLACE  
BALTIMORE, MD 21202

**Case Number: C-12-CV-20-000596**

**Other Reference Number(s):**

**BEL AIR AUTO AUCTION, INC. VS. CHUBB LIMITED, ET AL.**

Issue Date: 8/26/2020

**WRIT OF SUMMONS**

You are hereby summoned to file a written response by pleading or motion, within 60 days after service of this summons upon you, in this Court, to the attached complaint filed by:

BEL AIR AUTO AUCTION, INC.  
4805 Philadelphia Road  
Belcamp, MD 21017

This summons is effective for service only if served within 60 days after the date it is issued.

James Reilly  
Clerk of the Circuit Court

To the person summoned:

Failure to file a response within the time allowed may result in a judgment by default or the granting of the relief sought against you.

Personal attendance in court on the day named is NOT required.

Instructions for Service:

1. This summons is effective for service only if served within 60 days after the date issued.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Maryland Rule 2-126.
4. If this notice is served by private process, process server shall file a separate affidavit as required by Maryland Rule 2-126(a).

**SHERIFF'S RETURN**  
Circuit Court for Harford County

Sheriff fee: \_\_\_\_\_ By: \_\_\_\_\_

Served: \_\_\_\_\_

Time: \_\_\_\_\_ Date: \_\_\_\_\_

With the following:

- |  |   |
|--|---|
| <input type="checkbox"/> Summons                       | <input type="checkbox"/> Counter Complaint                |
| <input type="checkbox"/> Complaint                     | <input type="checkbox"/> Domestic Case Information Report |
| <input type="checkbox"/> Motions                       | <input type="checkbox"/> Financial Statement              |
| <input type="checkbox"/> Petition and Show Cause Order | <input type="checkbox"/> Other                            |

\_\_\_\_\_  
Please specify

Was unable to serve because:

- |   |  |
|---|--|
| <input type="checkbox"/> Moved left no forwarding address | <input type="checkbox"/> No such address |
| <input type="checkbox"/> Address not in jurisdiction      | <input type="checkbox"/> Other           |

\_\_\_\_\_  
Please specify

Sheriff fee: \$ \_\_\_\_\_

\_\_\_\_\_  
Serving Sheriff's Signature & Date

Instructions to Private Process Server:

1. This Summons is effective for service only if served within 60 days after the date issued.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, process server shall file a separate affidavit as required by Rule 2-126(a).



**MARYLAND**

20 W. Courtland Street  
Bel Air, Maryland 21014

**To:** GREAT NORTHERN INSURANCE COMPANY  
SERVE ON: MARYLAND INSURANCE  
ADMINISTRATION  
200 ST. PAUL PLACE, SUITE 2700  
BALTIMORE, MD 21202

**Case Number:**

**C-12-CV-20-000596**

**Other Reference Number(s):**

**BEL AIR AUTO AUCTION, INC. VS. CHUBB LIMITED, ET AL.**

Issue Date: 8/26/2020

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Belcamp, MD 21017

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James Reilly  
Clerk of the Circuit Court

To the person summoned:

Failure to file a response within the time allowed may result in a judgment by default or the granting of the relief sought against you.

Personal attendance in court on the day named is NOT required.

Instructions for Service:

1. This summons is effective for service only if served within 60 days after the date issued.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Maryland Rule 2-126.
4. If this notice is served by private process, process server shall file a separate affidavit as required by Maryland Rule 2-126(a).

**SHERIFF'S RETURN**  
Circuit Court for Harford County

Sheriff fee: \_\_\_\_\_ By: \_\_\_\_\_

Served: \_\_\_\_\_

Time: \_\_\_\_\_ Date: \_\_\_\_\_

With the following:

- |  |   |
|--|---|
| <input type="checkbox"/> Summons                       | <input type="checkbox"/> Counter Complaint                |
| <input type="checkbox"/> Complaint                     | <input type="checkbox"/> Domestic Case Information Report |
| <input type="checkbox"/> Motions                       | <input type="checkbox"/> Financial Statement              |
| <input type="checkbox"/> Petition and Show Cause Order | <input type="checkbox"/> Other                            |

\_\_\_\_\_  
Please specify

Was unable to serve because:

- |   |  |
|---|--|
| <input type="checkbox"/> Moved left no forwarding address | <input type="checkbox"/> No such address |
| <input type="checkbox"/> Address not in jurisdiction      | <input type="checkbox"/> Other           |

\_\_\_\_\_  
Please specify

Sheriff fee: \$ \_\_\_\_\_

\_\_\_\_\_  
Serving Sheriff's Signature & Date

Instructions to Private Process Server:

1. This Summons is effective for service only if served within 60 days after the date issued.
2. Proof of Service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, process server shall file a separate affidavit as required by Rule 2-126(a).

BEL AIR AUTO AUCTION, INC.  
4805 Philadelphia Road  
Belcamp, MD 21017

Plaintiff,

v.

CHUBB LIMITED  
c/o Chubb Group of Insurance  
Companies  
202B Hall's Mill Road  
Whitehouse Station, NJ 08889

SERVE ON:  
Maryland Insurance Administration  
200 St. Paul Place, Suite 2700  
Baltimore, MD 21202

And

GREAT NORTHERN INSURANCE  
COMPANY  
100 S. 5<sup>th</sup> Street Ste. 1800  
Minneapolis, Minnesota  
55402-1255

SERVE ON:  
Maryland Insurance Administration  
200 St. Paul Place, Suite 2700  
Baltimore, MD 21202

Defendants.

IN THE  
CIRCUIT COURT  
FOR  
HARFORD COUNTY

C-12-CV-20-000596

Case No.: \_\_\_\_\_

\* \* \* \* \*

**Complaint For Declaratory Judgment**

Plaintiff, Bel Air Auto Auction, Inc., sues Defendants, Chubb Limited and Great Northern Insurance Company (collectively, "Chubb") and states:

**I.  
Introduction**

1. This suit seeks a declaratory judgment that coverage exists under the business interruption provisions in a property insurance policy issued by Great Northern Insurance Company, as one of the Chubb Group of Insurance Companies, for the Bel Air Auto Auction, Inc. A correct copy of the Chubb Policy is attached as Exhibit 1 and has been Bates numbered for ease of reference. The Chubb Policy covers the facility at 4805 Philadelphia Road, Belcamp, Maryland and those specific locations listed in the policy. Exhibit 1 at CHUBB 000020. The suit does not at this time ask for monetary damages for breach of contract, subject Bel Air Auto Auction's right to enforce any declaratory judgment entered in its favor through an award of monetary damages as authorized by Md. Code Ann., Cts. & Jud. Proc. § 3-412.

**II.  
The Parties**

2. Bel Air Auto Auction is a Maryland corporation based in Harford County Maryland, where it conducts its business and affairs.

3. Great Northern Insurance Company is a subsidiary of Chubb Limited that issues policies of property insurance and is one of the Chubb Group of Insurance Companies.

4. Chubb Limited is a publicly traded corporation organized under the laws of Switzerland and the parent company of Great Northern. Chubb Limited is one of the largest domestic property and casualty insurers with operations in 54 countries and with, as of 2019, assets of over \$176 billion and revenue of over \$34



billion. Chubb Limited has several duties to the holders of policies issued by Great Northern, including receiving notices of loss from and claims for coverage by policy holders and managing claims from Great Northern policy holders.

### **III. Background Facts**

#### **A. SARS-Cov-2 and Covid 19**

5. Coronaviruses are respiratory viruses that cause illness in humans and include Middle East Respiratory Syndrome (MERS) and Sever Acute Respiratory Syndrome (SARS).

6. In December 2019, a new strain of respiratory virus belonging to the coronavirus family of viruses was identified in Wuhan, Hubei Providence, China. The new coronavirus, dubbed the novel coronavirus (nCoV) because it had never before been identified, can cause severe respiratory illness in people and can result in the death of those it infects. The new virus was officially named SARS-Cov-2, and is the virus that causes the disease known as COVID-19. While somewhat less deadly than SARS, SARS-Cov-2 is much more infectious than SARS and spreads much more readily. COVID-19 has resulted in millions of infections and deaths world-wide.

7. SARS-Cov-2, as a virus, is a microscopic, invisible inorganic physical substance that can cause loss or damage to property on which it locates or in which it is in the proximity of at any one time or during any period.

8. By February 2020, COVID-19 had appeared in the United States, as well as over 90 other countries. Because of its highly infectious nature and world-

wide presence, the World Health Organization on January 30, 2020 declared the outbreak of COVID-19 a public health emergency of international concern. On March 11, 2020, the World Health Organization officially declared COVID-19 a pandemic (defined by the World Health Organization as a worldwide spread of a new disease). Following these developments, on March 13, 2020, a national emergency was declared in the United States due to the spread of COVID-19.

9. COVID-19 is a highly infectious disease that can be spread in numerous ways. The most common method of spread is between people in close contact with each other (meaning less than 6 feet). Respiratory droplets from the mouth or nose are the main transmitter and can be spread when an infected person coughs, sneezes, exhales, talks, or even breaths. The contaminated respiratory droplets can be transmitted to the mouth, nose, or eyes of another person who then becomes infected.

10. The respiratory droplets also can be aerosolized and linger in the air for an unspecified time, ranging from a few seconds to hours, until gravity ultimately forces the aerosolized respiratory droplets from the air to a surface, such as a floor, door, wall, computer keyboard, and so on. The aerosolized respiratory droplets can remain on a surface and able to contaminate anyone coming in contact with the infected surface for undefined periods ranging from hours to several days. The aerosolized droplets can spread through normal air flow and even settle on surfaces some distance away from the infected person.

11. While COVID-19 has discernable symptoms, such as fever and chills, coughing, sore throat, sneezing, congestion, and running nose, many people are

asymptomatic and have COVID-19 while manifesting no outward symptoms or signs of illness. These asymptomatic people, like their counterparts with obvious symptoms, can spread the disease.

12. SARS-Cov-2, the virus causing the disease, and COVID-19, the disease resulting from the virus, can be present at an insured premises in various ways, including respiratory droplets in the air at or surrounding insured property, on the surfaces of object or tangible things (called fomites) at the insured property, and in persons infected with the disease, such as customers, employees, and service providers (whether symptomatic or asymptomatic) who are in the proximity of an insured property and the objects or tangible things located at or in at the insured property. While the presence of SARS-Cov-2 might be discoverable at a distinct moment, that discovery applies only to that moment and does not insure that the SARS-Cov-2 was not present at a previous time and will not be present at a future time. In effect, SARS-Cov-2 and COVID-19 are pervasively present and ubiquitous at any time and in any place where real or personal property is located or where people are or can be.

**B. SARS-Cov-2 and COVID-19 in the United States and Maryland**

13. As of August 21, 2020, the United States has suffered 5,551,793 reported cases of COVID-19 and 173,490 deaths resulting from the disease.

14. As of August 21, Maryland has suffered 102,899 reported cases of COVID-19 and 3,536 confirmed deaths. Harford County has suffered 2,257 reported cases and 66 deaths, with neighboring Baltimore City suffering 13,804 cases and 433 deaths, Baltimore County 14,471 cases and 561 deaths, Cecil County 752 cases and 30 deaths, and Howard County 4,178 cases and 112 deaths.

15. The neighboring states of Pennsylvania, Delaware, and New Jersey and their counties in proximity to Harford County have experienced similar, if not worse, statistics.

### **C. Maryland and Harford County's Response**

16. On March 5, 2020, Governor Hogan issued a Proclamation declaring a state of emergency and the existence of a catastrophic health emergency and an immediate danger to public safety stemming from SARS-Cov-2 and the COVID-19 it causes. This Proclamation was followed by a series of executive orders and proclamations from the Governor beginning on March 12, 2020, prohibiting large gatherings and requiring the cancellation of events and closing the use and occupancy of restaurants and bars and fitness centers to the general public. These executive proclamations and orders eventually lead to an order dated March 30, 2020 ordering, *inter alia*, that all persons in the State of Maryland “stay in their homes or places of residence (“Homes”)” except “to conduct or participate in Essential Activities,” as defined in the order, and prohibiting the gatherings of more than 10 persons. Order of the Governor of the State of Maryland Number 20-03-30-01.

17. In a Proclamation of May 20, 2020, Governor Hogan made an executive finding that “COVID-19 is a highly infectious respiratory disease that spreads easily from person to person, **physically contaminates property by attaching to surfaces for prolonged periods of time**, and may result in serious illness of death.”

18. On March 18, 2020, Barry Glassman, the Harford County Executive, issued Executive Order 20-01 declaring a state of emergency due to the COVID-19 pandemic, placing Harford County in line with the orders and proclamations issued by Governor Hogan.

**D. Bel Air Auto Auction and the effect of SARS-Cov-2 and COVID-19 and the governmental orders on its business and activities**

19. Bel Air Auto Auction occupies and operated a vehicle auction facility on 185 acres located at 4805 Philadelphia Road, Belcamp Maryland and those locations specified in the Chubb Policy. The overall main facility includes a 75,000 square foot, 10-lane auction building, a restaurant, an administrative office building, a state-of-the-art 50,000 square foot Vehicle Enhancement Center housing both mechanical and body shops, reconditioning bays, paint booths, and an imaging center, together with a separate building serving as a streamlined check-in facility for dealers and transporters.

20. Bel Air Auto Auction processes over 100,000 vehicles per year through consignments from new and used car dealers, private business fleets, and fleets from public service and government agencies. Bel Air Auto Auction offers weekly auto auctions, including repossessed car auctions, government auctions, salvage

auctions, and wholesale auctions and provides a wide range of auto-related services, including floor planning, storage, transportation, internet sales, full vehicle reconditioning and certification, and sales of donated vehicles for charitable organizations. Bel Air Auto Auction would run ten lanes of vehicles at its auctions in which prospective buyers could view the cars during “in-lane bidding” as the auction progressed. Exhibit 2 to this Complaint are correct copies of photographs of an auction in progress from Bel Air Auto Auction’s Facebook page.

21. The services Bel Air Auto Auction provides at its dealer vehicle auctions include Transportation (vehicle pickup and delivery), Automated Vehicle Check-in, Electronic Condition Reporting, Full Reconditioning and Repairs, Complete “Paperless Block” Sale Administration, Settlement & Reporting within 1 Day, All Lanes Simulcast, with online bidding from anywhere, secure storage, and Recovery and Remarketing Services.

22. As a direct and sole result of the presence of SARS-Cov-2 and its potential for causing COVID-19 and the State and Harford County governmental orders restricting and limiting the use and availability of the facility, Bel Air Auto Auction’s business and operations have been and continues to be impaired, diminished, and decreased.

23. All in-person, in-lane, live bidding has been forced to cease. Sales of vehicle have been forced to be conducted by remote Simulcast only because Bel Air Auto Auction has lost the full, unfettered use of its facility.

24. The food services and cafeteria have been forced to close, and various restrictions inside the facility have been imposed, such as requiring visitors to wear masks and installing signage and safe distancing reminders, COVID-screens, and plexiglass dividers.

25. Safety procedures, such as enhanced screening of persons entering the facility in the form of temperature checks and submission of questionnaires, with access to and use of the facility further limited and restricted based on the results of these procedures.

26. Vehicle sales have been drastically diminished and reduced, as have the related services provided by Bel Air Auto Auction at its facility due to the restrictions on its use imposed by SARS-Cov-2 and Covid-19 and the State and local governmental orders.

27. Bel Air Auto Auction's operations and its ability to conduct its business have been impaired, and its income from its business and operations has been actually and substantially impaired and diminished as a result of SARS-Cov-2 and COVID-19 and the governmental orders issued in consequences and as a direct result of SARS-Cov-2 and COVID-19.

28. Although the SARS-Cov-2 and Covid-19 and the State and local governmental orders have not resulted in a structural alteration or physical change to its premises, the SARS-Cov-2 and Covid-19 and the State and local governmental orders have caused direct physical loss or damage in the form of a loss of full use. This loss of full use has directly resulted in an actual and substantial impairment of operations, including loss of business income and an increase in business expense.

**E. The Chubb Policy**

29. Bel Air Auto Auction purchased from Chubb a policy of property and liability insurance that was issued on October 18, 2019 by Great Northern. The Policy, with a policy number 3601-95-62 BAL, was effective for the period from October 1, 2019 to October 1, 2020. Bel Air Auto Auction paid a premium of \$96,797 for the property portion of the policy and \$21,298 for the liability portion. Exhibit 1 at CHUBB 000009-10.

**F. The basic provisions of the Chubb Policy.**

30. The Chubb Policy contains a Schedule listing twelve distinct addresses comprising the insured premises and that together represent the Bel Air Auto Auction facility. Exhibit 1 at CHUBB 000013.

31. The Chubb Policy also lists the specific coverages and amounts of coverage provided for each of the locations, including “business income with extra expense” for six of the listed premise.” Exhibit 1 at CHUBB 000021-23.

32. The property portion of the policy insures buildings and personal property against loss caused by or resulting from a peril not otherwise excluded by the Policy and at or within 1000 feet of the premises listed in the Declarations (i.e. the 12 listed locations). Exhibit 1 at CHUBB 000035. Stated differently, the property portion of the Chubb Policy insures against loss caused by any and every form or type of peril unless a specific identified and named peril is expressly excluded from coverage by some other portion of the Chubb Policy.



33. The Policy specifically states that the insurer will “**pay for direct physical loss or damage to**” building or personal property caused by or resulting from a peril not otherwise excluded. (*Emphasis added*). Exhibit 1 at CHUBB 000035.

34. The property portion of the policy does not define either “direct physical loss” or “damage.”

35. From the perspective of the insured (Bel Air Auto Auction) both “direct physical loss” and “damage” mean and include either or both a structural change or alteration of the property or a loss of use of the property.

36. To the extent the words “direct physical loss or damage” can mean to a rational and reasonably prudent person both (a) a structural change or alteration of the property, but not a loss of its use, or (b) either or both a structural change or alteration of the property or a loss of use of the property, the term is ambiguous in its meaning in the policy.

37. Although the property portion of the Policy does not define damage, the liability portion of the policy does. The liability portion of the policy in the Definitions section defines “property damage” as meaning either physical injury to property, including loss of use, or loss of use without physical injury. As stated:

Property damage means:

- physical injury to tangible property, including resulting loss of use of that property, All such loss of use shall be deemed to occur at the time of the physical injury that caused it: or

- **loss of use of tangible property that is not physically injured.** All such loss of use shall be deemed to occur at the time of the occurrence that caused it.

*(Emphasis added)*. Exhibit 1 at CHUBB 000179.

38. The property portion of the Policy does not contain any exclusion for physical loss or damage to property caused by or resulting from a virus, such as SARS-Cov-2, or any other pathogen or disease causing substance.

39. The lack of an exclusion for viruses or other pathogens in the Chubb Policy was deliberate and intentional. On July 6, 2006, the Insurance Services Office (commonly referred to as the ISO) published for the benefit of the insurance industry a new endorsement for property insurance policies designated CP 01 40 07 06 – “Exclusion Of Loss Due To Virus Or Bacteria,” which states that there is no coverage for loss or damage caused by or resulting from any “virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.” This endorsement was published in response to the SARS outbreak and was an implicit acknowledgement that all risk policies (like the Chubb Policy) covered viruses as direct physical loss or damage to tangible property, such that a need existed to specifically exclude viruses if an insurance company wanted to avoid liability for the loss of use property occasioned by the presence of a virus. A correct copy of the ISO virus exclusion form is attached as Exhibit 3.

40. Most property insurance companies that want to exclude viruses from coverage use the ISO form CP 01 40 07 06 – “Exclusion Of Loss Due To Virus Or Bacteria.” Although this form was available to Chubb and could have been added to

the Chubb Policy, Chubb did not do so and has not done so in other policies it has issued. For example, the Chubb policy in *Café International Holding Company LLC v. Chubb Limited and Westchester Surplus Lines Insurance Company*, Case No. 1:20-cv-21641-MGG (United States District Court for the Southern District of Florida) does not contain a virus exclusion.

41. Although the Chubb Policy does not exclude viruses as a covered peril, the Chubb Policy contains one use of the term “virus,” albeit in a non-sensical form. In the exclusion for coverage from a “pollutant” (whose definition does not include viruses), the Chubb Policy contains an exception to the exclusion that says the exclusion does not apply to:

- A. ...
- B. any solid, liquid or gas used to suppress fire;
- C. water;
- D. ... .

But the Policy then goes on to state that the exception to the exclusion does not apply “to loss or damage involving:

- viruses or pathogens; or
- ammonia.”

Exhibit 1 at CHUBB 000050. What this exception to the exception to the exclusion means is beyond rational analysis or comprehension but demonstrates that Chubb and Great Northern were aware of the words “virus or pathogens” when issuing the policy.

**G. The Business Interruption coverage in the Chubb Policy.**

42. The Chubb Policy contains coverage for business interruption and extra expense resulting from direct physical loss or damage caused by a covered peril that occurs at or within 1,000 feet of the premises shown in the Declarations. The Chubb Policy requires the insurer to pay for actual loss of business income due to the actual impairment of operations and extra expense incurred due to the actual or potential impairment of operations caused by or resulting from direct physical loss or damage by a covered peril to property. As the Policy reads in pertinent part:

Except as otherwise provided, direct physical loss or damage must:

- be caused by or result from a covered peril; and
- occur at, or within 1,000 feet of the premises, other than a dependent business premises, shown in the Declarations.

We will pay for the actual:

- business income loss you incur due to the actual impairment of your operations; and
- extra expense you incur due to the actual or potential impairment of your operations,

during the period of restoration, not to exceed the applicable Limit Of Insurance for Business Income With Extra Expense shown in the Declarations.

This actual or potential impairment of operations must be caused by or result from direct physical loss or damage by a covered peril to property, unless otherwise stated.

Exhibit 1 at CHUBB 000064.

43. The Chubb Policy does not require a total shut down of a business for business interruption coverage to exist but only an impairment of operations.

44. To the extent direct physical loss or damage to property means and includes loss of use, the presence of SARS-Cov-2 and Covid-19 and issuance of the State and local governmental orders are perils not expressly excluded under the provisions of the Policy and are for this reason covered by the insurance.

**H. Additional business interruption coverages.**

45. In addition to the general business interruption and extra expense coverage, the Chubb Policy provides coverage for loss of business income for a thirty-day period due to actual impairment of operations and extra expense incurred directly caused by prohibition of access to the insured premises by a civil authority that is the direct result of direct physical loss or damage to property away from the insured premises provided the other property is within one mile of the insured premises. Properties within one mile of the Bel Air Auto Auction premises have suffered the same direct physical loss or damage as suffered by Bel Air Auto Auction and this direct physical loss or damage has resulted in the governmental orders by civil authorities prohibiting, restricting, or limiting access to Bel Air Auto Auction's premises.

46. As an alternative, the Policy provides coverage for loss of business income for a thirty-day period due to actual impairment of operations and extra expense incurred directly caused by prohibition of access to the insured premises by a civil authority resulting from a covered peril that is *not* the result of direct physical loss or damage to property away from the insured premises. Stated differently, this coverage applies if the loss of use from SARS-Cov-2 and Covid-19 cannot be considered to have resulted in direct physical loss or damage to property.

**I. Bel Air Auto Auction's claim for business interruption coverage**

47. As a result and due to the impairment of its business and operations and the extra expense it has incurred, Bel Air Auto Auction filed a claim for business interruption and extra expense insurance coverage with Chubb in accordance with the directions in the Chubb Policy.

48. Chubb denied the claim for business interruption insurance coverage on May 27, 2020. Exhibit 4 is a correct copy of the claim rejection letter of Chubb and Great Northern.

**J. Chubb's reasons for denying coverage.**

49. The reasons given by Chubb for the rejection of Bel Air Auto Auction's claim for coverage, as expressed in Exhibit 4, are as follows:

a. SARS-Cov-2 and COVID-19 have not resulted in direct physical loss or damage to the building or personal property. Chubb has assumed that direct physical loss or damage requires a structural change or other physical alteration to the building or property for coverage to exist and that loss of use is not sufficient. And the orders of the State and local jurisdiction requiring cessation or limiting all non-essential activities were to slow the spread of COVID-19 and were not a cause of direct physical loss or damage to the premises.

b. The Civil Authority coverage in the business income portion of the policy did not apply because (1) the civil authorities did not totally prohibit all access to the premises given that employees were permitted access. Nor was there direct physical loss or damage to premises away from but within one mile of the insured premises because there was no evidence of an order from a civil authority

issuing due to structural or other alteration to any property away from the premises but within one mile, loss of use not constituting direct physical loss or damage.

c. The prohibition of access coverage of the business income portion of the policy did not apply because (1) there was no total prohibition of access by a civil authority since employees were permitted access, (2) access was not prohibited as a direct result of a peril not otherwise excluded in the Policy that occurred at or within 1,000 feet of the premises, does not apply to an area of more than 5,000 square feet, or only applies to the premises described in the declarations, the orders not having been issued because the virus was discovered within 1,000 feet of the premises nor having been limited to a geographic area of 5,000 feet or less or the premises shown in the Declarations.

d. The Acts or Decisions exclusion in the main policy applies and bars coverage for losses based on the acts on the acts or decisions of any person, group, organization, or governmental body, there being no ensuing loss or damage caused by or resulting from a peril not otherwise excluded.

Chubb reserved the right to assert reasons to deny coverage not set forth in the claim denial letter.

**K. Bel Air Auto Auction's response to Chubb's claim denial.**

50. Bel Air Auto Auction's response as to why coverage exists for business interruption and extra expense is as follows:

a. (1) The words “direct physical loss or damage” are not defined in the property portion of the policy. From the perspective of the insured (as opposed to the insurer), these words mean loss of use as well as structural alteration or change.

(2) If the words “direct physical loss or damage” do not mean loss of use as well as structural alteration or change, the words are ambiguous, having two plausible meanings to a rational and reasonably prudent person. The ambiguity must be resolved in favor of the insured and against the insurer to provide coverage.

(3) If the entire policy, both property and liability, is to be regarded as a whole, the definition of property damage in the liability portion, meaning loss of use whether or not accompanied by physical injury, should control the meaning of physical loss or damage in the property portion to provide coverage.

(4) Chubb could have included the ISO virus exclusion or some other exclusion for viruses if it intended to not cover loss of use occasioned by the presence of viruses. The lack of an express exclusion indicates Chubb’s intention to cover physical loss or damage caused by viruses.

For these reasons, the loss of use resulting from SARS-Cov-2 and COVID-19 and the orders of the state and local governments is covered under the business interruption and extra expense portion of the policy.



b. The Civil Authority coverage in the business income portion of the policy applies because a prohibition does not have to be a total, absolute, and complete prohibition but can be a prohibition that restricts or limits use. Hence, the civil authorities did not have to totally prohibit all access to the premises and could prohibit or restrict the number or types of persons who could have access. And there was direct physical loss or damage to premises away from but within one mile of the premises for the same reason there was direct physical loss or damage to the insured premises. Other properties within one mile lost use of the properties due to SARS-Cov-2 and COVID-19 and the civil authority orders.

c. The prohibition of access coverage of the business income portion of the policy applied because (1) the total prohibition of access by a civil authority did not have to be a total, absolute, complete prohibit and could prohibit or limit the number or types of persons who could have access. And access was prohibited as a direct result of a peril not otherwise excluded in the Chubb Policy that has occurred at or within 1,000 feet of the premises, namely the presence of SARS-Cov-2 and COVID-19 on surfaces, in the air, or in persons present at the premises.

d. The Acts or Decisions exclusion applies only to the main coverage portion of the policy, not the business interruption and extra expense portion, as is demonstrated by the express Civil Authority coverage in the business interruption portion. The Acts and Decisions exclusion and the Civil Authority Coverage are inconsistent and irreconcilable. And since SARS-Cov-2 and COVID-19

constitutes an “ensuing loss” that continued to occur after the initial act or decision, the ensuing loss exception to the exclusion applies to restore coverage.

As with Chubb, Bel Air Auto Auction reserves the right to assert additional reasons why the denial of coverage is improper and why coverage exists.

**L. The reasons for a declaratory judgment.**

51. Bel Air Auto Auction and Chubb, as persons with an interest in a written contract whose rights, status, or other legal relations are affected by that contract, may have determined any question of construction or validity arising under the contract, or a declaration of rights, status, or other legal relations under it, as authorized under Md. Code Ann., Cts. & Jud. Proc. § 3-406.

52. The policy is a contract that the court may construe before or after a breach under Md. Code Ann., Cts. & Jud. Proc. § 3-407.

53. A declaratory judgment will serve to terminate the uncertainty or controversy giving rise to the proceeding because (a) an actual controversy exists between contending parties; (b) antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; and (c) a party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it, as specified in Md. Code Ann., Cts. & Jud. Proc. § 3-409.

54. The Court should order a speedy hearing of this action and direct that the matter be advanced on the calendar, as provided in Md. Code Ann., Cts. & Jud. Proc. § 3-409 (e).

WHEREFORE, Plaintiff, Bel Air Auto Auction, requests the Court, as provided by Md. Code Ann., Cts. & Jud. Proc. § 3-409 (e) to order a speedy hearing of this action and direct that the matter be advanced on the calendar and to issue a declaratory judgement that the:

a. business interruption and extra expense coverage exists under the Chubb Policy for Bel Air Auto Auction's losses due to the loss of use of the insured premises caused by SARS-Cov-2 and Covid-19 and the State and local governmental orders;

b. Civil Authority coverage exists under the business interruption and extra expense portion of the Chubb Policy;

c. prohibition of access coverage exists under the business interruption and extra expense portion of the Chubb Policy; and

d. Acts and Decisions exclusion in the Chubb Policy does not apply to the business interruption and extra expense portion of the Chubb Policy and does not apply because SARS-Cov-2 and Covid-19 and the State and local governmental orders are ensuing causes of loss.

/s/ Lawrence J. Gebhardt

Lawrence J. Gebhardt

CPF No. 7212010082

Gregory L. Arbogast

CPF No. 1012140026

George B. Cunningham

CPF No. 1712130121

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