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Denis J. O'Malley (*pro hac vice* motion forthcoming)
ROBINSON & COLE LLP
280 Trumbull Street
Hartford, CT 06103
Tel: (860) 275-8200

*Attorneys for Defendant
Travelers Casualty Insurance Company of America*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CARPE DIEM SPA, Inc.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Case No.
TRAVELERS CASUALTY INSURANCE	:	
COMPANY OF AMERICA,	:	
	:	
Defendant.	:	
	:	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Travelers Casualty Insurance Company of America (“Travelers”) hereby removes this action from the New Jersey Superior Court to the United States District Court for the District of New Jersey. This Court has original jurisdiction over this action under 28 U.S.C. § 1332 because

there is complete diversity of citizenship between Travelers and Plaintiff Carpe Diem Spa, Inc. (“Plaintiff” or “Carpe Diem”), and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

BACKGROUND

1. This civil action was commenced in New Jersey Superior Court, Mercer County, on or about September 18, 2020 (the “State Court Action”). The State Court Action is styled *Carpe Diem Spa, Inc. v. Travelers Casualty Insurance Company of America*, No. MER-L-1652-20.

2. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Travelers in the State Court Action are attached hereto as Exhibit A.

3. In accordance with 28 U.S.C. § 1446(d), Travelers will, upon filing this Notice of Removal, furnish written notice to Plaintiff’s counsel, and will file and serve a copy of this Notice with the Clerk of the New Jersey Superior Court, Mercer County.

4. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty (30) days of service of process upon Travelers in the State Court Action via Travelers’ designated agent for service of process, Corporation Service Company, on September 23, 2020.

5. In the Complaint, Plaintiff alleges that it is “a New Jersey corporation with its principal place of business located at 43 US Highway 202, Far Hills, New Jersey 07931.” Ex. A, Compl., ¶ 1. Plaintiff further alleges that it “operates the Carpe Diem Salon, which is a full service hair and beauty salon.” *Id.*, ¶ 17.

6. Travelers is a corporation organized under Connecticut law with its principal place of business in Hartford, Connecticut.

7. Plaintiff further alleges that Travelers issued to Plaintiff “a policy of insurance, Policy No. 680-3708X775-20-42 (the ‘Policy’), for the policy period January 20, 2020 to January 20, 2021.” *Id.*, ¶ 6.

8. In the Complaint, Plaintiff alleges that “in response to the 2019 novel coronavirus disease (COVID-19)”, New Jersey Governor Philip Murphy issued several executive orders (the “Orders”) between March and April 2020. *Id.*, ¶¶ 11-19. Plaintiff alleges the Orders required Plaintiff to close its business to the public for a period of approximately six months. *Id.*, ¶¶ 11-16, 18 (alleging Orders issued beginning in March 2020 forced Plaintiff to close its business “for several months” and that it had “recently reopened” at the time Plaintiff commenced the State Court Action on September 18, 2020).

9. Plaintiff alleges that the Orders “are physically impacting Plaintiff” and that the Orders have and are continuing to cause “physical loss and damage” to the insured Premises. *Id.*, ¶ 20. Plaintiff claims that it “has suffered” and “is suffering significant business losses and extra expenses as a result of the Orders, and coverage is vital to Plaintiff’s ability to continue as a business.” *Id.*, ¶¶ 18, 23.

10. Plaintiff alleges that Travelers denied coverage for its losses resulting from the Orders. *Id.*, ¶ 24.

11. The Complaint asserts two causes of action against Travelers: declaratory judgment (Count I); and breach of contract (Count II).

12. In Count I, Plaintiff seeks a declaration as to its rights under the Policy. *Id.*, ¶ 22. Specifically, Plaintiff seeks a declaration that it is entitled to coverage for its claimed losses under the Policy’s Business Income, Extra Expense, and Civil Authority coverages. *Id.*, ¶¶ 25, 26.

13. In Count II, Plaintiff also seeks unspecified damages, attorney's fees and costs and such other relief as the Court deems just and proper. *Id.*, Count II (paragraph beginning “WHEREFORE, . . .”).

14. Plaintiff further alleges that it has suffered damages as a result of Travelers’ alleged breach of the insurance contract. *Id.*, ¶ 30. Plaintiff also seeks attorney’s fees. *Id.*, Prayer for Relief.

15. Plaintiff further alleges that Travelers denial of coverage “would constitute a false and potentially fraudulent misrepresentation that could endanger Plaintiff and the public.” *Id.*, ¶ 20.

16. On October 16, 2020, Travelers served Plaintiff with a request to provide a written statement of the amount of damages claimed in the State Court Action, pursuant to Rule 4:5-2 of the New Jersey Rules of Court. Ex. A, Demand for Specification of Damages. In response, Plaintiff stated only “that its losses are less than \$75,000.” *Id.*, Statement of Damages. Knowing that the New Jersey Supreme Court has made clear that such statements of damages are “non-binding[.]” *Lang v. Baker*, 101 N.J. 147, 156 (1985), Plaintiff failed to delineate its alleged damages with specificity and instead crafted its response to improperly avoid removal.

VENUE

17. The United States District Court for the District of New Jersey is the federal jurisdiction in which New Jersey Superior Court, Mercer County, sits. The State Court Action was originally filed in New Jersey Superior Court, Mercer County, which makes venue in this federal judicial district proper. 28 U.S.C. §§ 110, 1441(a).

SUBJECT MATTER JURISDICTION

18. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Travelers, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

Complete Diversity of Citizenship Exists Between Plaintiff and Travelers

19. For purposes of diversity jurisdiction, “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1).

20. Travelers is a citizen of the State of Connecticut, which is its state of incorporation and where it maintains its principal place of business.

21. Plaintiff is a citizen of the State of New Jersey, which is its state of incorporation and where it maintains its principal place of business. Ex. A, Compl., ¶ 1.

22. Accordingly, there is complete diversity of citizenship between Plaintiff and Travelers.

The Amount in Controversy Exceeds \$75,000

23. Under 28 U.S.C. § 1332(a), diversity subject matter jurisdiction requires that the matter in controversy “exceed[] the sum or value of \$75,000, exclusive of interest and costs.”

24. A notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold,” *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014), and if contested, a court will determine whether the threshold is met by a preponderance of the evidence. *Id.*, at 553; *see also Vaccaro v. Amazon.com.dedc, LLC*, Civil Action No. 19-11852, 2019 WL 1149783, *3 (D.N.J. March 13, 2019).

25. In the Complaint, Plaintiff seeks breach of contract damages arising from Travelers’ denial of coverage for Plaintiff’s claimed losses under the Policy’s Business Income, Extra Expense, and Civil Authority coverages. Ex. A, Compl., Count II; *id.*, ¶¶ 26(b)-(d). Plaintiff alleges that “is suffering business losses and extra expenses as a result of the Orders.” *Id.*, ¶ 23. The Complaint also attempts to allege purported physical loss or damage to property. *See id.*, ¶ 20 (“The Orders are physically impacting Plaintiff.”).

26. The allegations in the Complaint also appear to seek bad faith extracontractual damages. *Id.*, ¶ 30 (“Plaintiff has been suffered (*sic*) damages as a result of the breach.”); *see also id.*, ¶ 20 (alleging Travelers’ denial of coverage constitutes “fraudulent misrepresentation”). Paragraph 20 of the Complaint also appears to allege a claim for fraudulent misrepresentation and/or under the New Jersey Consumer Fraud Act.

27. Plaintiff’s Policy provides Business Income and Extra Expense coverage for actual loss for 12 consecutive months, subject to the terms, provisions, exclusions, and limitations of the Policy. Based on financial information Plaintiff provided to Travelers in connection with the underwriting of the Policy and the claims alleged, the amount in controversy plausibly exceeds the \$75,000 jurisdictional threshold. Out of respect for any confidentiality concerns Plaintiff may have with respect to its financial information, Travelers has not set forth

Plaintiff's financial information in detail herein. Travelers will make this financial information available to the Court if requested or if appropriate in the event that a motion to remand is filed. Travelers would submit this information under seal if Plaintiff so requests and the Court allows.

28. Plaintiff's allegations of ongoing losses and its claim for declaratory relief further increase the amount in controversy. *See Excel Pharmacy Servs., LLC v. Liberty Mut. Ins. Co.*, No. 19-3399, 2020 WL 4876261, at *2 (3d Cir. Aug. 20, 2020) (explaining that "in lawsuits seeking injunctive or declaratory relief, courts measure the amount in controversy by the value of the rights which the plaintiff seeks to protect," and "[i]n determining the value of an injunction or declaration, the court may look not only at past losses but also at potential harm") (internal quotations and citations omitted); *Dardovitch v. Haltzman*, 190 F.3d 125, 135 (3d Cir. 1999) (explaining that where "a suit is brought to establish directly the right to receive any payments because the putative defendant has repudiated that right entirely, and not just with respect to current payments, the amount in controversy is the entire amount that may ever come due").

29. Plaintiff's allegations that Travelers committed "fraudulent misrepresentation" and that Plaintiff "has been suffered (*sic*) damages as a result of the breach," *id.*, ¶¶ 20, 30, appear to state a claim for bad faith and/or to seek damages in excess of the amount of business income losses and extra expenses Plaintiff allegedly has and continues to suffer as a result of the Orders. Such damages should also be considered in assessing the amount in controversy. *See Pickett v. Lloyd's*, 131 N.J. 457, 481 (1993).

30. Plaintiff's claim for attorney's fees (Compl., Prayer for Relief), which potentially may be recoverable against an insurer, *see American Hardware Mut. Ins. Co. v. Harley Davidson of Trenton, Inc.*, 124 Fed. Appx. 107, 112 (3d Cir. 2005), should also be considered in assessing

the amount in controversy. *See Suber v. Chrysler Corp.*, 104 F.3d 578, 585 (3d Cir. 1997). In other insurance coverage-related cases litigated in New Jersey, fee awards have exceeded \$75,000. *See, e.g., American Hardware*, 124 Fed. Appx. at 112-13 (remanding to district court to consider whether to *increase* the \$83,710 award of attorney's fees in an insurance bad faith action).

31. Based on the foregoing, Travelers' potential liability for Plaintiff's claims for loss of business income, incurred extra expenses, fraudulent misrepresentation (and/or violation of the New Jersey Consumer Fraud Act) and attorney's fees plausibly exceeds the \$75,000 jurisdictional threshold, exclusive of interest and costs.

WHEREFORE, Travelers respectfully states that this action, previously pending in the New Jersey Superior Court, Mercer County, is properly removed to this Court, and Travelers respectfully requests that this Court proceed as if this case had been originally filed in this Court.

Dated: October 22, 2020

Respectfully submitted,

s/Liza M. Walsh

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William T. Walsh, Jr.
WALSH PIZZI O'REILLY FALANGA LLP
Three Gateway Center
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Insurance Company of America*

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Attorneys for Defendant
Travelers Casualty Insurance Company of America

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CARPE DIEM SPA, INC.,

Plaintiff,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA,

Defendant.

Civil Action No. _____

**LOCAL CIVIL RULE 11.2
CERTIFICATION**

Filed Electronically

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that to the knowledge of the undersigned the matter in controversy is not related to any pending matter or controversy.

Dated: October 22, 2020

Respectfully submitted,

By: Liza M. Walsh
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William T. Walsh, Jr.
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Attorneys for Defendant

Travelers Casualty Insurance Company of

America

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Attorneys for Defendant
Travelers Casualty Insurance Company of America

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CARPE DIEM SPA, INC.,

Plaintiff,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA,

Defendant.

Civil Action No. _____

**LOCAL CIVIL RULE 201.1
CERTIFICATION**

Filed Electronically

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the above-captioned matter is not subject to compulsory arbitration because Plaintiff seeks injunctive and/or declaratory relief.

Dated: October 22, 2020

Respectfully submitted,

By: Liza M. Walsh
Liza M. Walsh
William T. Walsh, Jr.
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Hartford, CT 06103

Tel: (860) 275-8200

Attorneys for Defendant

Travelers Casualty Insurance Company of

America

EXHIBIT A



Notice of Service of Process

LYN / ALL
Transmittal Number: 22059563
Date Processed: 09/23/2020

Primary Contact: Sharon Brooks - MS 08-A
The Travelers Companies, Inc.
One Tower Square
Rm 8MS
Hartford, CT 06183-0001

Entity: Travelers Casualty Insurance Company of America
Entity ID Number 2317367

Entity Served: Travelers Casualty Ins Company of America

Title of Action: Carpe Diem Spa, Inc. vs. Travelers Casualty Insurance Company of America

Matter Name/ID: Carpe Diem Spa, Inc. vs. Travelers Casualty Insurance Company of America
(10527972)

Document(s) Type: Summons/Complaint

Nature of Action: Contract

Court/Agency: Mercer County Superior Court, NJ

Case/Reference No: MER-L-1652-20

Jurisdiction Served: Connecticut

Date Served on CSC: 09/23/2020

Answer or Appearance Due: 35 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: Ralph P. Ferrara
609-571-3738

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

Business Inquiry

Business Details

Business Name:	TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA	Citizenship/State Inc:	Domestic/CT
Business ID:	0768991	Last Report Filed Year:	NONE
Business Address:	NONE	Business Type:	Other/Insurance
Mailing Address:	NONE	Business Status:	Active
Date Inc/Registration:	Dec 23, 2003		
Annual Report Due Date:	Not Applicable		
NAICS Code:	NONE	NAICS Sub Code:	NONE

Principals Details

No Principal required for Business with Id: 0768991

Agent Summary

Agent Name	
Agent Business Address	NONE
Agent Residence Address	NONE

SUMMONS

Attorney(s) Ralph P. Ferrara, Esquire
Office Address 50 W. State Street, Suite 1100
Town, State, Zip Code Trenton, NJ 08608
Telephone Number 609-571-3738
Attorney(s) for Plaintiff _____
CARPE DIEM SPA, INC.

**Superior Court of
New Jersey**

Mercer County
LAW Division

Docket No: MER-L-1652-20

Plaintiff(s)

vs.

TRAVELERS CASUALTY INS.
COMPANY OF AMERICA
Defendant(s)

**CIVIL ACTION
SUMMONS**

~~From The State of New Jersey To The Defendant(s) Named Above:~~

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

/s/ Michelle Smith
Clerk of the Superior Court

DATED: 09/18/2020

Name of Defendant to Be Served: TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA

Address of Defendant to Be Served: One Tower Square, Hartford, CT 06183

[Signature]
Principal Server
Circuit Court

FERRARA LAW GROUP, P.C.
Ralph P. Ferrara, Esquire (ID #024521985)
Kevin J. Kotch (ID #050341993)
50 W. State Street, Suite 1100
Trenton, New Jersey 08608
P: (609) 571-3738
F: (609) 498-7440
Attorneys for Plaintiff

CARPE DIEM SPA, INC.

Plaintiff,

v.

**TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA**

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION

MERCER COUNTY

DOCKET NO. L- _____ - _____

COMPLAINT

COMPLAINT

Plaintiff Carpe Diem Spa, Inc. (“Plaintiff” or “Carpe Diem”) by and through its attorneys and by way of Complaint against Defendant Travelers Casualty Insurance Company of America (“Defendant” or “Travelers”) alleges and states the following:

I. PARTIES

1. Plaintiff Carpe Diem Spa, Inc. (“Plaintiff” or “Carpe Diem”) is a New Jersey corporation with its principal place of business located at 43 US Highway 202, Far Hills, New Jersey 07931.

2. Upon information and belief, Defendant Travelers Casualty Insurance Company of America (“Defendant” or “Travelers”) is a Connecticut corporation with its principal place of business at One Tower Square, Hartford, Connecticut 06183.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to N.J.S.A. 2A:16-50 to N.J.S.A. 2A:16-62 to issue declaratory relief regarding the insurance coverage provided by Travelers.

4. This Court has personal jurisdiction over Travelers as it is licensed to issue insurance policies in the State of New Jersey, regularly does business within the State of New Jersey and issued insurance to Plaintiff in New Jersey.

5. Venue in this Court is proper pursuant to New Jersey Court Rules 4:3-2(a) and 4:3-2(b), because Travelers does business by issuing insurance policies throughout the State of New Jersey, including in Mercer County, and may be served in Mercer County by service upon the Commissioner of Banking and Insurance.

III. FACTS

A. The Insurance Coverage.

6. Travelers did issue to Plaintiff a policy of insurance, Policy No. 680-3708X775-20-42 (the "Policy"), for the policy period January 20, 2020 to January 20, 2021.

7. Plaintiff has paid all premiums due under the Policy, and the Policy is in full force.

8. The Policy is comprehensive and includes coverage for commercial property, including but not limited to, loss of use of Plaintiff's building, personal property, and personal property of others under certain circumstances.

9. The Policy provides coverage to Plaintiff for, among other things, business income, extra expense and civil authority relating to any covered loss under the Policy.

10. The Policy is an "all risk policy", which covers all risks unless clearly and specifically excluded.

B. The Government Closure Of Non-Essential Businesses In New Jersey.

11. On March 9, 2020, in response to the 2019 novel coronavirus disease (COVID-19), New Jersey Governor Philip Murphy issued Executive Order 103 declaring a Public Health Emergency and State of Emergency in New Jersey.

12. On March 16, 2020, Governor Murphy issued Executive Order 104 which, among other things, limited the scope and hours of operation for non-essential, retail, recreational and entertainment businesses.

13. On March 21, 2020, Governor Murphy issued Executive Order 107 which, among other things, ordered New Jersey residents to remain at home except to obtain takeout food or beverages from restaurants, other dining establishments or food courts. Executive Order 107 also provided that all recreational and entertainment businesses must close to the public as long as that Order remains in effect. This includes “[f]acilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, including but not limited to cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons [and] tattoo parlors....”

14. On April 7, 2020, Governor Murphy issued Executive Order 119 which extended the Public Health Emergency and State of Emergency in New Jersey.

15. On May 6, 2020, Governor Murphy issued Executive Order 138 which further extended the Public Health Emergency and State of Emergency in New Jersey.

16. The Executive Orders of Governor Murphy are collectively referred to as the “Orders.”

C. The Impact On Plaintiff's Business.

17. Plaintiff operates the Carpe Diem Salon, which is a full service hair and beauty salon.

18. Carpe Diem Salon was doing substantial business at the time it was forced to close its business to the public. As a result of the Orders, Plaintiff's business was closed for several months and only recently reopened. Plaintiff has suffered a substantial loss of business and income as a result of the Orders. Plaintiff has also been forced to lay off staff.

19. This closure of Plaintiff's business is the result of the Orders. To Plaintiff's knowledge, prior to the closure, no employee or patron of Plaintiff had been diagnosed with COVID-19.

20. The Orders are physically impacting Plaintiff. Any effort by Travelers to deny the physical loss and damage would constitute a false and potentially fraudulent misrepresentation that could endanger Plaintiff and the public.

COUNT I – DECLARATORY JUDGMENT

21. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.

22. Plaintiff requests that this Court determine its rights under the insurance policy issued by Travelers.

23. A declaratory judgment determining Plaintiff's right to coverage under the Policy will ensure that Plaintiff receive the coverage it paid for at the time it is needed. Plaintiff is suffering significant business losses and extra expenses as a result of the Orders, and coverage is vital to Plaintiff's ability to continue as a business.

24. Insurers throughout the country have been routinely denying coverage for business interruption losses associated with business closures resulting from "Stay at Home" orders or other

orders that restrict the ability of non-essential businesses to conduct business. Travelers has denied coverage for the Carpe Diem for the losses asserted herein. As a result, Plaintiff seeks a declaration of its rights and Travelers' obligations under the Policy.

25. Plaintiff seeks a declaration that Travelers is obligated to provide business interruption and extra expense coverage under the Policy, including coverage under the Civil Authority provision.

26. In this respect, Plaintiff seeks declarations that:

- a. The Orders trigger coverage under the Policy;
- b. Travelers is obligated to provide business interruption coverage to Plaintiff;
- c. Travelers is obligated to provide extra expense coverage to Plaintiff;
- d. Travelers is obligated to provide coverage to Plaintiff under the Civil Authority provisions of the Policy;
- e. Plaintiff has a reasonable expectation of coverage for these losses under the Policy;
- f. The virus exclusion in the Policy does not apply to the losses asserted by Plaintiff; and
- g. Application of the virus exclusion in the Policy to Plaintiff's losses is void as against public policy.

WHEREFORE, Plaintiff moves this Court to enter a declaratory judgment that Travelers is obligated to provide coverage to Plaintiff for business interruption and extra expense losses from the closure of its business as a result of the Orders, and that:

- a. The Orders trigger coverage under the Policy;
- b. Travelers is obligated to provide business interruption coverage to Plaintiff;

- c. Travelers is obligated to provide extra expense coverage to Plaintiff;
- d. Travelers is obligated to provide coverage to Plaintiff under the Civil Authority provisions of the Policy;
- e. Plaintiff has a reasonable expectation of coverage for these losses under the Policy;
- f. The virus exclusion in the Policy does not apply to the losses asserted by Plaintiff; and
- g. Application of the virus exclusion in the Policy to Plaintiff's losses is void as against public policy.

COUNT II – BREACH OF CONTRACT

- 27. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.
- 28. As set forth above, Plaintiff has insurance coverage with Travelers which provides coverage for the losses asserted herein.
- 29. Defendant Travelers has breached the Policy by denying coverage for these losses.
- 30. Plaintiff has been suffered damages as a result of the breach.

WHEREFORE, Plaintiff requests judgment in its favor and against Travelers for damages, attorney's fees and costs and such other relief as the Court deems just and proper.

Respectfully submitted,

FERRARA LAW GROUP, P.C.

DATE: September 17, 2020

BY: /s/ Ralph P. Ferrara
RALPH P. FERRARA, ESQUIRE
Attorney for Carpe Diem Spa, Inc.

DESIGNATION OF TRIAL COUNSEL

Please take notice that pursuant to R. 4:25-4, Ralph P. Ferrara, Esquire is hereby designated as trial counsel.

FERRARA LAW GROUP, P.C.

DATE: September 17, 2020

BY: /s/ Ralph P. Ferrara
RALPH P. FERRARA, ESQUIRE
Attorneys for Plaintiff

DEMAND FOR TRIAL BY JURY

Please take notice that Plaintiff demands a trial by jury.

FERRARA LAW GROUP, P.C.

DATE: September 17, 2020

BY: /s/ Ralph P. Ferrara
RALPH P. FERRARA, ESQUIRE
Attorneys for Plaintiff

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned hereby certifies that the matter in controversy is not the subject of any other pending action in any court or of a pending arbitration proceeding. No such other action or arbitration proceeding is contemplated. The undersigned is presently unaware of any other party who should be joined in the action. The undersigned recognizes a continuing obligation during the course of the litigation to file and serve on all other parties and with the Court an amended certification if there is a change in the facts stated in this original certification.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

FERRARA LAW GROUP, P.C.

DATE: September 17, 2020

BY: /s/ Ralph P. Ferrara

RALPH P. FERRARA, ESQUIRE
Attorneys for Plaintiff

A True Copy
Attest:
Proxies Server
Christine Ferran

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-001652-20

Case Caption: CARPE DIEM SPA, INC. VS TRAVELERS CASUALTY INS

Case Type: CONTRACT/COMMERCIAL TRANSACTION

Case Initiation Date: 09/17/2020

Document Type: Complaint with Jury Demand

Attorney Name: RALPH PETER FERRARA

Jury Demand: YES - 6 JURORS

Firm Name: FERRARA LAW GROUP, PC

Is this a professional malpractice case? NO

Address: 50 W STATE ST STE 1100

Related cases pending: NO

TRENTON NJ 08608

If yes, list docket numbers:

Phone: 6095713738

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Name of Party: PLAINTIFF : Carpe Diem Spa, Inc.

Are sexual abuse claims alleged by: Carpe Diem Spa, Inc.? NO

Name of Defendant's Primary Insurance Company
(if known): Unknown

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

[Redacted Signature Line]

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

09/17/2020
Dated

/s/ RALPH PETER FERRARA
Signed

NJ SUPERIOR COURT LAWYER REFERRAL AND LEGAL SERVICE LIST**ATLANTIC COUNTY:**

Deputy Clerk, Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., 1st Fl.
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Deputy Clerk, Superior Court
Civil Division, Room 115
Justice Center, 10 Main St.
Hackensack, NJ 07601
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk, Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Road
Mt. Holly, NJ 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:

Deputy Clerk, Superior Court
Civil Processing Office
Hall of Justice
1st Fl, Suite 150
101 South 5th Street
Camden, NJ 08103
LAWYER REFERRAL
(856) 482-0618
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk, Superior Court
9 N. Main Street
Cape May Court House, NJ
08210
LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk, Superior Court
Civil Case Management Office
60 West Broad Street
P. O. Box 10
Bridgeton, NJ 08302
LAWYER REFERRAL
(856) 696-5550
LEGAL SERVICES
(856) 691-0494

ESSEX COUNTY:

Deputy Clerk, Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr.
Blvd.
Newark, NJ 07102
LAWYER REFERRAL
(973) 622-6204
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:

Deputy Clerk, Superior Court
Civil Case Management Office,
Attn: Intake, First Fl., Court
House
1 North Broad Street
Woodbury, NJ 08096
LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:

Deputy Clerk, Superior Court
Civil Records Dept.
Brennan Court House, 1st Floor
583 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Deputy Clerk, Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822
LAWYER REFERRAL
(908) 236-6109
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:

Deputy Clerk, Superior Court
Local Filing Office, Courthouse
175 S. Broad Street
P. O. Box 8068
Trenton, NJ 08650
LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Deputy Clerk, Superior Court
Middlesex Vicinage
Second Floor, Tower
56 Paterson Street
P. O. Box 2633
New Brunswick, NJ 08903-2633
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:

Deputy Clerk, Superior Court
Court House
P. O. Box 1269
Freehold, NJ 07728-1269
LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Morris County Courthouse
Civil Division
Washington & Court Streets
P. O. Box 910
Morristown, NJ 07963-0910
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk, Superior Court
Court House, Room 121
118 Washington Street
P.O. Box 2191
Toms River, NJ 08754-2191
LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:

Deputy Clerk, Superior Court
Civil Division - Court House
77 Hamilton Street
Paterson, NJ 07505
LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY:

Deputy Clerk, Superior Court
Attn: Civil Case Management
Office
92 Market Street
Salem, NJ 08079
LAWYER REFERRAL
(856) 935-5629
LEGAL SERVICES
(856) 691-0494

SOMERSET COUNTY:

Deputy Clerk, Superior Court
Civil Division Office
40 North Bridge Street
P. O. Box 3000
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:

Deputy Clerk, Superior
Court
Sussex County Judicial
Center
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:

Deputy Clerk, Superior
Court
1st Floor, Court House
2 Broad Street
Elizabeth, NJ 07207-
6073
LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Deputy Clerk, Superior
Court
Civil Division, Court
House
413 Second Street
Belvidere, NJ 07823-
1500
LAWYER REFERRAL
(908) 859-4300
LEGAL SERVICES
(908) 475-2010

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS CARPE DIEM SPA, INC.,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Somerset County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) FERRARA LAW GROUP, P.C., 50 W. State Street, Suite 1100 Trenton, New Jersey 08608; (609) 571-3738; ralph@ferraralawgp.com</p>	<p>DEFENDANTS TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) WALSH PIZZI O'REILLY FALANGA LLP, Three Gateway Center, 100 Mulberry St., 15th Fl., Newark, NJ 07102; Tel. (973) 757-1100 lwalsh@walsh.law</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input checked="" type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input checked="" type="checkbox"/> 4	<input type="checkbox"/> 4																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES						
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act						
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<p>LABOR</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>BANKRUPTCY</p> <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<p>OTHER STATUTES</p> <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

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

Brief description of cause:
Declaratory Action/Breach of Contract

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: 10/22/2020 SIGNATURE OF ATTORNEY OF RECORD: s/Liza M. Walsh

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____