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John Barrett

Clerk of Circuit Court

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Honorable Laura Gramling

Perez-32

Branch 32

## STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

12AM MANAGEMENT GROUP DBA PLUM LOUNGE,  
N64 W12920 Mill Road  
Menomonee Falls, WI 53051

Plaintiffs,

Case No.

Case Code: 30106, 30303

vs.

SOCIETY INSURANCE,  
A MUTUAL COMPANY  
c/o Registered Agent: William Bunzel,  
150 Camelot Drive  
Fond Du Lac, Wisconsin 54935

Defendant.

## COMPLAINT

Plaintiff 12AM Management Group DBA Plum Lounge, (Plaintiff), by its attorneys, Gimbel, Reilly, Guerin & Brown LLP, complain against the above-named defendant as follows:

## INTRODUCTION

1. Plaintiff is an owner and operator of a bar/lounge and/or event/hospitality service in Milwaukee who was forced, by orders issued by the State of Wisconsin, Governor Evers and the City of Milwaukee, to cease its operation – through no fault of its own – as part of governmental efforts to slow the spread of the COVID-19 global pandemic.

2. Society Insurance, A Mutual Company (Society) designed, marketed and sold all-risk insurance policies to business owners like Plaintiff to protect their businesses from events like these which threaten their livelihoods based on factors wholly outside of their control.

3. Plaintiff purchased an "all-risk" policy from Society that included coverage for the claims made in this case. In turn, Society accepted these premiums.

4. When Plaintiff made claims in accordance with the policy it purchased, Society breached its obligations that it voluntarily undertook in exchange for Plaintiff's premium payments by denying Plaintiff's claims arising from the government-ordered interruption of their businesses.

5. Plaintiff challenges not only Society's decision to deny its claims, but also the practice of Society's processing of claims arising from the government-ordered interruption of Plaintiff's business, which insurance policies provided coverage for losses incurred due to a "necessary suspension" of the operations, including when its business was forced to close or limit operations due to a government order.

6. Society waited until after it designed and drafted an insurance policy, after it collected Plaintiff's premiums, after a pandemic struck and after the resulting closure orders caused catastrophic business losses to Plaintiff, to try to limit its claim exposure after the fact through its interpretation that the presence of SARS-CoV-2 or COVID-19 is not "physical loss" and therefore is not a covered cause of loss under its policies.

7. Prior to the pandemic, Society was a participant in the insurance industry which has created specific exclusions for other pandemic-related losses under similar

commercial property policies. Indeed, if a virus could never result in a “physical loss” to property, there would be no need for such an exclusion. Moreover, Society’s assertions in its attempts to limit coverage ignore the fact that its policies promised to provide coverage for losses incurred due to the government actions “taken in response to dangerous physical conditions,” even if those dangerous physical conditions cause damage to property at locations other than those insured under their policies.

8. Upon information and belief, Society has used its superior financial position to unfairly deny many policyholders across the Midwest, including Plaintiff, related to claims associated with Business Interruption Claims.

#### **PARTIES**

9. Plaintiff 12AM Management Group DBA Plum Lounge, is a domestic limited liability company duly authorized to conduct business in the State of Wisconsin with its principal place of business located at 780 N Jefferson Street, Milwaukee, Wisconsin 53202, and is in the bar, lounge, and hospitality business. 12AM Management Group DBA Plum Lounge’s registered agent for service of process is Andre B. Lewis, located at N64 W12920 Mill Road, Menomonee Falls, Wisconsin 53051.

10. Defendant Society is a domestic corporation duly authorized to conduct business in the State of Wisconsin with its principal place of business located at 150 Camelot Drive, Fond Du Lac, Wisconsin 54935, and is in the Business Interruption Insurance business. Society’s registered agent for service of process is William Bunzel, located at 150 Camelot Drive, Fond Du Lac, Wisconsin 54935.

11. Upon information and belief, Society is in the business of issuing “all risk” insurance policies, which purportedly provide for indemnification for property damage to real and personal property caused by covered losses. At all times material hereto, and specifically in 2020, Society had issued an insurance policy to Plaintiff providing coverage for certain losses to its real and personal property which policies were in full force and effect in 2020. Society is therefore obligated under the terms of these policies and is a proper party defendant in this matter.

### FACTS COMMON TO ALL CLAIMS

#### *The Policy*

12. Plaintiff contracted with Society for insurance coverage for “all risk” policy. In exchange for costly premiums, Society promised to indemnify Plaintiff for various losses including, but not limited to, “property damage” losses, “Business Income” losses, “Extra Expenses,” “Customer Expense Reimbursement,” “civil authority” losses, and “contamination” losses. This contract was memorialized in a Business Owners Policy (the Policy). A copy of this Policy is attached as Exhibit 1.

13. The Policy does not exclude losses from viruses or pandemics. Thus, the all-risk Policy purchased by Plaintiff covers losses caused by viruses, such as COVID-19, and/or from governmental orders issued to promote the public health during that same time.

14. In addition to property damage losses, Society also agreed to pay for the actual loss of “Business Income” sustained by Plaintiff “due to the necessary suspension”

of Plaintiff's operations during the period of business interruption caused by "direct physical loss of or damage to covered property" at the insured's premises.

15. With respect to the business interruption losses, "suspension" means: (1) "the partial slowdown or complete cessation of your business activities"; or (2) "that a part or all of the described premises is rendered un-tenantable if coverage for Business Income applies."

16. Per the Policy, Society is to pay for "direct physical loss of or damage to Covered Property . . . caused by or resulting from any Covered Cause of Loss." "Covered Property" refers to both the physical buildings and "Business Personal Property."

17. The Policy defines "Business Personal Property" as:

Business Personal Property located in or on the buildings at the described premises or in the open (or in a vehicle) within 100 feet of described premises, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition E.5.d.(3)(b);
- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
  - (a) Made a part of the building or structure you occupy but do not own; and
  - (b) You acquired or made at your expense but cannot legally remove;
- (4) Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph A.1.b.(2). ; and
- (5) Building Glass, if you are a tenant and no Limit of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody, or control.



The Policy defines "Covered Cause of Loss" as "Direct Physical Loss unless the loss is excluded or limited under this coverage form."

18. Per the Policy, Society is to pay for any "actual loss of Business Income [Plaintiff] sustain due to the necessary suspension of 'operations' during the 'period of restoration.'" The Policy defines "Business Income" as:

Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and . . . Continuing necessary operating expenses occurred.

19. Per the Policy, Society is to pay for any "necessary Extra Expense" incurred throughout the "period of restoration" that Plaintiff "would not have incurred if there had been no direct physical loss or damage to covered property . . ." The Policy defines "Extra Expense" as any expense incurred:

- (a) To avoid or minimize the suspension of business and to continue "operations":
  - (i) At the described premises; or
  - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
- (b) To minimize the suspension of business if you cannot continue "operation."
- (c) To:
  - (i) Repair or replace any property; or
  - (ii) Research, replace or restore the lost information on damages "valuable papers and records"

20. Per the Policy, Society is to pay for all "necessary costs to reimburse additional expenses incurred by [Plaintiff] because [Plaintiff's] products or services, which were ordered in advance, were not available due to direct physical loss or damage

to covered property . . .” The Policy defines “customer expense” as “the additional cost incurred by person for whom prearranged products or services cannot be honored.”

21. Per the Policy, Society is to pay for the actual loss of Business Income Plaintiff sustains and any necessary Extra Expenses “caused by action of civil authority that prohibits access to the described premises . . .” The Policy does not expressly define “Civil Authority.”

22. Per the Policy, Society is to pay for all cleaning and sanitizing costs due to contamination, and the actual loss of Business Income and Extra Expenses due to contamination, contamination threat and publicity of contamination. The Policy defines “contamination” as “a defect, deficiency, inadequacy or dangerous condition in your products, merchandise, or premises.”

23. While it could have, the Policy did not contain any exclusion for viruses and/or pandemics.

24. Each of the above-listed premises is covered under the Policy.

25. The Policy also provided coverage for some Business Personal Property while in transit or temporarily off-premises.

26. Upon information and belief, Society accepted Plaintiff’s premium payments either with no intention of providing coverage due to direct physical loss and/or from closure caused by civil authority due to a pandemic, or with the pandemic upon it, Society would decide to deny claims that insureds would reasonably expect to be covered.

### ***The Premise and Property***

27. 12AM Management Group DBA Plum Lounge, is a bar/lounge known as "Plum Lounge" and was located at 780 N. Jefferson Street, Milwaukee, Wisconsin 53202. Prior to the COVID-19 pandemic, Plum Lounge had regularly scheduled hours of operation with multiple full bars and dance floors that were open for business to the public.

### ***The COVID-19 Pandemic***

28. On or about March 11, 2020, the World Health Organization (WHO) officially classified COVID-19 as a pandemic.<sup>1</sup> The following day, Governor Evers declared a Public Health Emergency in Wisconsin.<sup>2</sup> On or about March 25, 2020, the State of Wisconsin began operating under Governor Evers' "Safer at Home" order, which ceased operations of any "non-essential" business, prohibited any gatherings of individuals who "are not part of a single household," and ordered individuals to only perform "minimum basic operations."<sup>3</sup> Governor Evers later extended the "Safer at Home" order to last until May 26, 2020.<sup>4</sup>

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<sup>1</sup> WHO Director-General's opening remarks at the media briefing on COVID-19, World Health Organization (March 11, 2020) at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

<sup>2</sup> Gov. Evers Declares Public Health Emergency Due to COVID-19, Office of the Governor, State of Wisconsin (March 12, 2020) at <https://content.govdelivery.com/accounts/WIGOV/bulletins/280ac92>.

<sup>3</sup> Emergency Order #12, Safer at Home Order, Department of Health Services, State of Wisconsin (March 24, 2020) at <https://evers.wi.gov/Documents/COVID19/EMO12-SaferAtHome.pdf>.

<sup>4</sup> Emergency Order #12, Safer at Home Order, Department of Health Services, State of Wisconsin (April 16, 2020) at [https://content.govdelivery.com/attachments/WIGOV/2020/04/16/file\\_attachments/1428995/EMO28-SaferAtHome.pdf](https://content.govdelivery.com/attachments/WIGOV/2020/04/16/file_attachments/1428995/EMO28-SaferAtHome.pdf).



29. On or about May 14, 2020, the City of Milwaukee Health Department issued an Order and Public Health Plan<sup>5</sup> that addressed the reopening and establishment of certain business practices and use of property.

30. As it related to restaurants, the City of Milwaukee Health Department addressed the use of restaurant property as follows:

h. **Restaurants.** Restaurants may remain open only if they remain in compliance with the following:

- i. Restaurants may remain open for food take-out or delivery service only;
- ii. Alcohol sales shall comply with Section 2(i) below;
- ii. Customers may enter the above establishments only for the purpose of ordering, pick-up, and paying for food or beverages or both;
- iv. No seating may be provided;
- v. Food and drink may not be consumed on premises, either indoors or outdoors;
- vi. Establishments shall comply with Physical Distancing to the extent possible and Protective Measure Requirements among all individuals on the premises;
- vii. Restaurants shall cease any self-service operations of salad bars, beverage stations, and buffets, and
- viii. Customers are prohibited from self-dispensing any unpackaged food or beverage

*Id.* at p. 4-5. (Emphasis added.)

31. Moreover, in the same order, the City of Milwaukee ordered that all “Places of Public Amusement and Activity” remain closed except for the purposes and conditions stated. *Id.* at p. 9. Specifically, the order stated that:

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<sup>5</sup> Order #1, *COVID-19 Public Health Plan for the City of Milwaukee*, City of Milwaukee Health Department (May 14, 2020,) at <https://www.documentcloud.org/documents/6890535-Moving-Milwaukee-Forward.html>

Whether indoors or outdoors, places of public amusement and activity shall remain closed, including but not limited to the following: stadiums, amusement parks, conference centers, carnivals ... fairs... movie and other theaters, concert and country clubs other than for the purpose of facilitating activities allowed under 2(k) including golfing or use of driving ranges, social clubs, miniature golf, and gyms and fitness centers.

*Id.*

32. The City of Milwaukee also included restrictions as to "Gatherings" and required COVID-19 mitigation strategies including, but not limited to, size limitations of ten individuals or less, requiring food or beverage offerings to be provided in pre-packaged boxes or bags and prohibiting buffet or family-style meals, as well as compliance with physical distancing and protective measure requirements.

*Id.* at 8.

33. As a result of these orders and by no fault of their own, Plaintiff was forced to cease and otherwise drastically limit its operations and deal with the lost use of its premises and property.

34. As stated above, prior to the COVID-19 pandemic, Plaintiff had regularly scheduled hours of operation with multiple full bars and dance floors that were open for business to the public on its property. After Governor Evers' orders and the ensuing and independent orders of the City of Milwaukee, Plaintiff was forced to drastically limit the use of its property to comply with various reopening orders and health guidelines. Because of these reopening orders and guidelines, Plaintiff was forced to limit the use of its property and premises and became completely non-operational. These limitations continued and changed throughout the COVID-19 pandemic as guidelines and orders

were modified to include social distancing limitations and crowd gathering limitations, all of which restricted the use of Plaintiff's property.

*The Effects of SARS-CoV-2 and COVID-19 on People and Property*

35. COVID-19 poses multiple health risks, and "[i]n severe cases, COVID-19 can cause fatal acute respiratory distress syndrome, cardiomyopathy, sepsis, pneumonia, and acute kidney injury. Stroke and venous thromboembolism have been recently reported in younger adult cases."<sup>6</sup> To avoid these risks, identification of each case in combination with isolation and quarantine is vital. *Id.* at ¶25. Of utmost importance is the practice of physically distancing from other humans. See *id.* at ¶¶27, 37-38. It is recommended that individuals stay at least six feet from one another, and there is evidence that doing so helps prevent the spread of COVID-19: "[d]ata from the current pandemic provide evidence that social distancing interventions effectively reduce virus transmission." *Id.* at ¶¶ 27, 38.

36. As of July 8, 2021, there have been 613,484 confirmed cases of COVID-19 in Wisconsin, 7,335 of which have resulted in death, and 107,696 confirmed cases in Milwaukee County alone.<sup>7</sup>

37. COVID-19 can spread through various channels. While human-to-human contact is the most common way to spread the virus, the virus can also be easily transmitted via surfaces. An individual can contract COVID-19 "by touching a surface

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<sup>6</sup> Affidavit of Ryan P. Westergaard (April 28, 2020), ¶20 at [https://content.govdelivery.com/attachments/WIGOV/2020/04/28/file\\_attachments/1438404/Westergaard%20Affidavit%20signed.pdf](https://content.govdelivery.com/attachments/WIGOV/2020/04/28/file_attachments/1438404/Westergaard%20Affidavit%20signed.pdf).

<sup>7</sup> COVID-19: County Data, Cases and deaths by county, Wisconsin Department of Health Services, <https://www.dhs.wisconsin.gov/covid-19/county.htm#case%20death> (last updated July 8, 2021).

or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes . . .”<sup>8</sup>

38. The Wisconsin Economic Development Corporation has provided guidance for various industries regarding reopening during COVID-19, including the food service industry. The guidance includes but is not limited to:

- “Sanitize high-contact areas in the front and back of the establishments (for example, doorknobs, buttons, cooler doors, shopping carts/baskets and check-out counters) every two hours, or after each user if feasible. Sanitize tables and seating after each guest.”
- “Use disposable menus or sanitize menus after each use.”
- “Use gloves to avoid direct bare hand contact with ready-to-eat foods or unwrapped single-use items such as straws, stir sticks or toothpicks.”
- “Wrap food containers to prevent cross-contamination.”
- “Use rolled silverware/napkins stored in sealed bags. Staff will roll silverware in designated sanitary areas. Do not preset silverware. Once removed from the sealed bags, utensils may not be reused, even if they have not been unwrapped.”
- “Install physical barriers such as sneeze guards and partitions at cash registers, bars, host stands and other areas where maintaining physical distance of six feet is difficult.”
- “When exchanging paper and coin money, do not touch your face afterward. Ask customers to place cash on the counter rather than directly into your hand. Place money on the counter, not in hand, when providing change back to customers. Clean counter after each customer at checkout.”
- “Any indoor or outdoor waiting area must be marked to enforce social distancing standards.”

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<sup>8</sup> <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#:~:text=It%20may%20be%20possible%20that,way%20the%20virus%20spreads.>



- “Dining rooms should maintain six feet between tables. When possible, physical barriers made of plastic or similar solid material should separate tables/booths. Tables and booths that are not compliant should be clearly signed and blocked off (*i.e.*, with visible tape) across seats and tables.”<sup>9</sup>

39. To protect both employees and patrons, Plaintiff purchased additional cleaning supplies and took various precautions to ensure safety.

40. According to the CDC, “[i]t may be possible that a person can get COVID-19 by *touching a surface or object that has the virus on it* and then touching their own mouth, nose, or possibly their eyes . . . ”<sup>10</sup>

41. According to the National institute of Health, “people may acquire [COVID-19] through the air and after touching contaminated objects,” and can also contract the virus by touching a contaminated surface and subsequently touching one’s face.<sup>11</sup> Upon information and belief, when individuals carrying SARS-CoV-2 virions breathe, talk, cough, or sneeze, they expel aerosolized droplet nuclei that remain in the air, accumulate in buildings and make the premises unsafe and unusable.

42. Finally, according to Hartford HealthCare, “[t]ouching a viral droplet on a surface, then touching your face (mouth, nose or eyes), can also cause an infection. These are the only entry points for the virus, which explains why medical experts are urging people to practice social distancing, wash hands or use a hand sanitizer (at least 60%

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<sup>9</sup> Wisconsin Guidance on Preparing Workplaces for COVID-19: Restaurants, Food Service, and Bars, Wisconsin Economic Development Corporation at <https://wedc.org/wp-content/uploads/2020/08/COVID-19-Restaurants-and-Food-Service-Guidelines.pdf>.

<sup>10</sup> Food Safety and Coronavirus Disease 2019 (COVID-19), Centers for Disease Control and Prevention at <https://www.cdc.gov/foodsafety/newsletter/food-safety-and-Coronavirus.html> (emphasis added).

<sup>11</sup> Study suggests new coronavirus may remain on surfaces for days, National Institute of Health (March 24, 2020) at <https://www.nih.gov/news-events/nih-research-matters/study-suggests-new-coronavirus-may-remain-surfaces-days>.



alcohol) frequently and regularly disinfect hard surfaces high-traffic areas in the home, like the kitchen.”<sup>12</sup>

43. Research indicates that COVID-19 strains physically infect surfaces and can stay alive on surfaces for up to twenty-eight days.<sup>13</sup> This renders property exposed to COVID-19 both unsafe and dangerous.

44. Upon information and belief, the scientific community has confirmed that SARS-CoV-2 virions and COVID-19 alter the conditions of properties.

45. Upon information and belief, physical loss and damage to property result because SARS-CoV-2 virions have a corporeal existence and are contained in respiratory droplets. Once expelled from infected individuals, these droplets adhere to surfaces and objects and physically change these once safe surfaces into “fomites.” Fomites are objects, previously safe to touch, that now serve as a vehicle for transmissions of SARS-CoV-2 virions. Fomites physically change the air, airspaces, property and property surfaces by becoming a part of the air or property. This physical change makes contact with the affected surfaces unsafe and potentially deadly. The physical change of the affected surface or material causes tangible and severe property loss and damage. The properties are unusable, dangerous, and cannot be used unless and until the COVID-19 related conditions are fully rectified.

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<sup>12</sup> *These Are the Ways COVID-19 is Transmitted (Or Not)*, Hartford HealthCare (March 12, 2020) at <https://hartfordhealthcare.org/about-us/news-press/news-detail?articleid=24686&publicId=395>.

<sup>13</sup> *Covid virus 'survives for 28 days' in lab conditions*, BBC News (October 11, 2020) at <https://www.bbc.com/news/health-54500673#:~:text=The%20virus%20responsible%20for%20Covid,for%20far%20longer%20than%20thought>.

46. Contamination of Plaintiff by COVID-19 would be a direct physical loss of covered property. The continuous presence of COVID-19 on and/or around Plaintiff's premise rendered Plaintiff's property and premise unsafe and unfit for its intended use and has caused physical property damage and/or loss as defined by the Policy.

47. At the time, pursuant to Governor Evers' "Safer at Home" order, a civil authority per the Policy, Plaintiff's above-listed property closed in its entirety and ceased all operations on or about March 25, 2020.

*Plaintiff's Losses*

48. In total, Plaintiff's net income is down at least \$720,653.00 from the same time period last year.

49. While Plaintiff have been able to slowly and partially reopen as time goes on, they continue to endure lower profits.

50. In order to protect themselves from these unforeseen and unpreventable closures, Plaintiff purchased the Policy from Society. As described above, the Policy contained no exclusion for pandemic-related losses.

51. On May 8, 2020, Plaintiffs submitted a notice of claim to Society regarding its losses due to COVID-19. Society subsequently denied Plaintiff's claim and refused any payment.

52. Society erroneously claimed that Plaintiff suffered no "physical loss" and therefore Society denied indemnifying Plaintiff.

53. Since that time, Plaintiff has incurred expenses, including but not limited to losses from business income, additional operating expenses, as well as expenses and

liabilities pursuing its insurance claim, and other matters all to its damage in an amount to be determined at trial.

54. Society's failure to pay the claims has caused severe financial distress to Plaintiff, which is intentional on the part of Society and constitutes a disregard of its legal rights pursuant to the contract of insurance Plaintiff purchased.

**FIRST CLAIM FOR RELIEF**  
**Breach of Contract**

55. Plaintiff hereby realleges and incorporates by reference as if fully set forth herein each and every allegation contained in paragraph nos. 1-54 of this complaint.

56. By failing to pay the damages requested by Plaintiff pursuant to the Policy, Society materially breached its contract of insurance with Plaintiff without any legal basis to do so.

57. The breach of contract as alleged resulted in consequential damages which Society is obligated to pay. Plaintiff has performed all of its obligations pursuant to the contract.

58. As a direct and proximate result of Society's conduct, Plaintiff has sustained damages in an amount to be determined at trial.

**SECOND CLAIM FOR RELIEF**  
**Declaratory Judgment**

59. Plaintiff hereby realleges and incorporates by reference as if fully set forth herein each and every allegation contained in paragraph nos. 1-58 of this complaint.

60. The Policy is a contract under which Plaintiff paid substantial premiums to Society in exchange for indemnification in instances such as COVID-19.

61. As alleged above, Plaintiff's total income losses are at least \$720,653.00 from the same period last year. Society has refused to indemnify Plaintiff for its losses in accordance with its policy obligations.

62. An actual and justiciable controversy exists as to Plaintiff's right to indemnification.

63. Plaintiff seeks a declaratory judgment to declare that COVID-19 and its effects and Governor Evers' orders fall within the Policy's definition of property damage and/or civil authority in accordance with caselaw as well as generally accepted insurance contract interpretation principles.

64. Plaintiff further seeks a declaratory judgment to declare that Society is obligated to pay Plaintiff for the full amount of the losses incurred in connection with covered business losses.

### **THIRD CLAIM FOR RELIEF**

#### **Bad Faith**

65. Plaintiffs hereby realleges and incorporates by reference as if fully set forth herein each and every allegation contained in paragraph nos. 1-64 of this complaint.

66. Upon information and belief, Society has arbitrarily and intentionally denied claims without adequate factual or legal basis.

67. The actions of Society were taken in disregard of Plaintiff's rights and Society has breached its duty of good faith and fair dealing required under the law and the Wisconsin Administrative Code.

68. Upon information and belief, Society committed bad faith by the following:

- a. Failing to fully, fairly, and promptly investigate Plaintiff's claims;
- b. Unreasonably denying or withholding payments under the policies;
- c. Engaging in a pattern and practice of illicit claim practices;
- d. Failure to provide a reasonable explanation and accurate explanation on the basis of denials;
- e. Otherwise acting in bad faith.

69. The actions of Society constitute bad faith and have resulted in extra-contractual damages to which Plaintiff is entitled.

70. As a direct and proximate result of Society's conduct, Plaintiff has sustained damages in an amount to be determined at trial, including attorney fees.

#### **FOURTH CLAIM FOR RELIEF Punitive Damages**

71. Plaintiff hereby realleges and incorporates by reference as if fully set forth herein each and every allegation contained in paragraph nos. 1-70 of this complaint.

72. Society acted intentionally and in malicious disregard of Plaintiff's rights contrary to section 895.043(3), *Stats.* Plaintiff is therefore entitled to punitive damages in an amount to be determined at trial.

WHEREFORE, Plaintiff demands judgment against Society pursuant to the terms of the insurance policy, monetary judgment in an amount to be determined at trial, plus costs, disbursements, attorney fees, post-judgment interest and any other relief which this Court deems just and equitable.



Dated this 3rd day of September, 2021.

GIMBEL, REILLY, GUERIN & BROWN

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*a/civil/saz's hospitality/p/complaint 2021-06-24*