

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GLOW MEDISPA, LLC, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

SENTINEL INSURANCE COMPANY,
LIMITED,

Defendant.

No.

COMPLAINT—CLASS ACTION

JURY DEMAND

I. INTRODUCTION

Plaintiff Glow Medispa, LLC (“Glow Medispa”), individually and on behalf of all other similarly situated members of the defined national class and Washington State sub-classes (the “Class Members”), by and through the undersigned attorneys, brings this class action against Defendant Sentinel Insurance Company, Limited (“Sentinel or “Defendant”) and alleges as follows based on personal knowledge and information and belief:

II. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because at least one member of the proposed Class and Washington subclass is a citizen of a state different from that of Defendant, the proposed Class

1 and subclass each consist of more than 100 class members, and the aggregate amount in
2 controversy exceeds \$5,000,000. The Court has supplemental jurisdiction over Plaintiff's state
3 law claims under 28 U.S.C. § 1367.

4 2. This Court has personal jurisdiction over Defendant because Defendant registered
5 to do business in Washington, has sufficient minimum contacts in Washington, and otherwise
6 intentionally avails itself of the markets within Washington through its business activities, such
7 that the exercise of jurisdiction by this Court is proper. Moreover, the claims of Plaintiff and all
8 of the Washington subclass members in this case arise out of and directly relate to Defendant's
9 contacts with Washington.
10

11 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(3) because the
12 Court has personal jurisdiction over Defendant, a substantial portion the alleged wrongdoing
13 occurred in this District and the state of Washington, and Defendant has sufficient contacts with
14 this District and the state of Washington.
15

16 4. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.
17 § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims at
18 issue in this Complaint arose in this District. Plaintiff's place of business is located in Seattle and
19 Kirkland, King County. This action is therefore appropriately filed in the Seattle Division
20 because a substantial portion of the events giving rise to this lawsuit arose in King County.
21

22 **III. PARTIES**

23 5. Plaintiff Glow Medispa owns and operates a medical spa business located at 4409
24 California Ave. SW, Suite 100, Seattle, WA 98116.
25
26

1 13. Sentinel’s insurance policy issued to Plaintiff promises to pay Plaintiff for “direct
2 physical loss of or physical damage to” covered property.

3 14. Sentinel’s insurance policy issued to Plaintiff includes Business Income
4 Coverage, Extra Expense Coverage, Extended Business Income Coverage and Civil Authority
5 Coverage.

6 15. Plaintiff paid all premiums for the coverage when due.

7 16. On or about January 2020, the United States of America saw its first cases of
8 persons infected by COVID-19, which has been designated a worldwide pandemic.

9 17. On February 29, 2020, Washington Governor Jay Inslee issued Proclamation 20-
10 5, declaring a State of Emergency for all counties in the state of Washington as the result of
11 COVID-19. Thereafter, he issued a series of certain proclamations and orders affecting many
12 persons and businesses in Washington, whether infected with COVID-19 or not, requiring
13 certain public health precautions.

14 18. On March 16, 2020, Governor Inslee issued Proclamation 20-14, “Reduction of
15 Statewide Limits on Gatherings.” The proclamation prohibits “[gathering] activities of less than
16 50 people . . . unless organizers of those activities comply with social distancing and sanitation
17 measures established by the United States Center for Disease Control and Prevention of the
18 Washington State Department of Health guidelines.”

19 19. On March 23, 2020, Governor Inslee issued Proclamation 20-25, “Stay Home—
20 State Healthy.” The proclamation requires that “[a]ll people in Washington State [] immediately
21 cease leaving their home or place of residence except: (1) to conduct or participate in essential
22 activities, and/or (2) for employment in essential business activities.” The proclamation prohibits
23
24
25
26

1 “all non-essential businesses in Washington State from conducting business, within the
2 limitations provided herein.”

3 20. Governor Inslee has extended Proclamation 20-25 until May 31, 2020.

4 21. Plaintiff was not designated to be an “essential business” by Governor Inslee.

5 22. By order of Governor Inslee, medical spas including Plaintiff were prohibited
6 from operating their businesses except according to the terms of the proclamations and orders.
7

8 23. Since March 17, 2020, Plaintiff’s business has suffered a suspension.

9 24. Plaintiff has not been able to use its business for its insured purpose of providing
10 medical spa and skin care services to the extent for which Sentinel has insured its premises.

11 25. No COVID-19 virus has been detected on Plaintiff’s business premises.

12 26. Plaintiff’s property has sustained direct physical loss and/or damage related to
13 COVID-19 and/or the proclamations and orders.
14

15 27. Plaintiff’s property will continue to sustain direct physical loss or damage covered
16 by the Sentinel policy or policies, including but not limited to business interruption, extra
17 expense, interruption by civil authority, and other expenses.

18 28. Plaintiff’s property cannot be fully used for its intended purposes.

19 29. As a result of the above, Plaintiff has experienced and will experience loss
20 covered by the Sentinel policy or policies.
21

22 30. Plaintiff submitted a claim to Sentinel for losses covered by the Policy. Sentinel
23 denied coverage.

24 31. Upon information and belief, Sentinel has denied and will deny all similar claims
25 for coverage.
26

1 premises related to COVID-19 and/or orders issued by Governor Inslee, and/or other civil
2 authorities.

3 E. ***Extended Business Income Breach of Contract Class:*** All persons and
4 entities in the United States insured under a Sentinel policy with Extended Business
5 Income coverage who suffered a suspension of their business at the covered premises
6 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
7 other civil authorities and whose Extended Business Income claim has been denied by
8 Sentinel.

9
10 F. ***Extended Business Income Breach of Contract Washington Subclass:***
11 All persons and entities in the State of Washington insured under a Sentinel policy with
12 Extended Business Income coverage who suffered a suspension of their business at the
13 covered premises related to COVID-19 and/or orders issued by Governor Inslee, and/or
14 other civil authorities and whose Extended Business Income claim has been denied by
15 Sentinel.

16
17 G. ***Extended Business Income Declaratory Relief Class:*** All persons and
18 entities in the United States insured under a Sentinel policy with Extended Business
19 Income coverage who suffered a suspension of their business at the covered premises due
20 to COVID-19 related to COVID-19 and/or orders issued by Governor Inslee, other
21 Governors, and/or other civil authorities.

22
23 H. ***Extended Business Income Declaratory Relief Washington Subclass:*** All
24 persons and entities in the State of Washington insured under a Sentinel policy with
25 Extended Business Income coverage who suffered a suspension of their business at the
26

1 covered premises due to COVID-19 related to COVID-19 and/or orders issued by
2 Governor Inslee, and/or other civil authorities.

3 I. ***Extra Expense Breach of Contract Class:*** All persons and entities in the
4 United States insured under a Sentinel policy with Extra Expense coverage who incurred
5 expenses while seeking to minimize losses from the suspension of business at the covered
6 premises in connection with COVID-19 and/or orders issued by Governor Inslee, other
7 Governors, and/or other civil authorities and whose Extra Expense claim has been denied
8 by Sentinel.

9
10 J. ***Extra Expense Breach of Contract Washington Subclass:*** All persons
11 and entities in the State of Washington insured under a Sentinel policy with Extra
12 Expense coverage who incurred expenses while seeking to minimize losses from the
13 suspension of business at the covered premises in connection with COVID-19 and/or
14 orders issued by Governor Inslee, and/or other civil authorities and whose Extra Expense
15 claim has been denied by Sentinel.

16
17 K. ***Extra Expense Declaratory Relief Class:*** All persons and entities in the
18 United States insured under a Sentinel policy with Extra Expense coverage who incurred
19 expenses while seeking to minimize losses from the suspension of their business at the
20 covered premises in connection with COVID-19 and/or orders issued by Governor Inslee,
21 other Governors, and/or other civil authorities.

22
23 L. ***Extra Expense Declaratory Relief Washington Subclass:*** All persons and
24 entities in the State of Washington insured under a Sentinel policy with Extra Expense
25 coverage who incurred expenses while seeking to minimize losses from the suspension of
26

1 their business at the covered premises in connection with COVID-19 and/or orders issued
2 by Governor Inslee, and/or other civil authorities.

3 M. ***Civil Authority Breach of Contract Class:*** All persons and entities in the
4 United States insured under a Sentinel policy with Civil Authority coverage who suffered
5 a loss of business income and/or extra expense related to the impact of COVID-19 and/or
6 orders issued by Governor Inslee, other Governors, and/or other civil authorities and
7 whose Civil Authority claim has been denied by Sentinel.
8

9 N. ***Civil Authority Breach of Contract Washington Subclass:*** All persons
10 and entities in the State of Washington insured under a Sentinel policy with Civil
11 Authority coverage who suffered a loss of business income and/or extra expense related
12 to the impact of COVID-19 and/or orders issued by Governor Inslee, and/or other civil
13 authorities and whose Civil Authority claim has been denied by Sentinel.
14

15 O. ***Civil Authority Declaratory Relief Class:*** All persons and entities in the
16 United States insured under a Sentinel policy with Civil Authority coverage who suffered
17 a loss of business income and/or extra expense related to COVID-19 and/or orders issued
18 by Governor Inslee, other Governors, and/or other civil authorities.

19 P. ***Civil Authority Declaratory Relief Washington Subclass:*** All persons and
20 entities in the State of Washington insured under a Sentinel policy with Civil Authority
21 coverage who suffered a loss of business income and/or extra expense related to the
22 impact of COVID-19 19 and/or orders issued by Governor Inslee, and/or other civil
23 authorities.
24

25 34. Excluded from the Classes and Subclasses are Defendant's officers, directors, and
26 employees; the judicial officers and associated court staff assigned to this case; and the

1 immediate family members of such officers and staff. Plaintiff reserves the right to amend the
2 Class definition based on information obtained in discovery.

3 35. This action may properly be maintained on behalf of each proposed Class under
4 the criteria of Rule 23 of the Federal Rules of Civil Procedure.

5 36. **Numerosity:** The members of the Class are so numerous that joinder of all
6 members would be impractical. Plaintiff is informed and believes that each proposed Class and
7 Subclass contains thousands of members. The precise number of class members can be
8 ascertained through discovery, which will include Defendant's records of policyholders.

9 37. **Commonality and Predominance:** Common questions of law and fact
10 predominate over any questions affecting only individual members of the Class. Common
11 questions include, but are not limited to, the following:
12

13 A. Whether the class members suffered covered losses based on common
14 policies issued to members of the Class and Subclass;

15 B. Whether Sentinel acted in a manner common to the Class and Subclass by
16 wrongfully denying claims for coverage relating to COVID-19 and/or orders issued by
17 Governor Inslee, other Governors, and/or other civil authorities;

18 C. Whether Business Income coverage in Sentinel's policies of insurance
19 applies to a suspension of practice relating to COVID-19 and/or orders issued by
20 Governor Inslee, other Governors, and/or other civil authorities;

21 D. Whether Extended Business Income coverage in Sentinel's policies of
22 insurance applies to a suspension of practice relating to COVID-19 and/or orders issued
23 by Governor Inslee, other Governors, and/or civil authorities;
24
25
26

1 E. Whether Extra Expense coverage in Sentinel’s policies of insurance
2 applies to efforts to minimize a loss relating to COVID-19 and/or orders issued by
3 Governor Inslee, other Governors, and/or other civil authorities;

4 F. Whether Civil Authority coverage in Sentinel’s policies of insurance
5 applies to a suspension of practice relating to COVID-19 and/or orders issued by
6 Governor Inslee, other Governors, and/or civil authorities;

7 G. Whether Sentinel has breached its contracts of insurance through a blanket
8 denial of all claims based on business interruption, income loss or closures related to
9 COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or other civil
10 authorities;

11 H. Whether, because of Defendant’s conduct, Plaintiff and the class members
12 have suffered damages; and if so, the appropriate amount thereof; and
13

14 I. Whether, because of Defendant’s conduct, Plaintiff and the class members
15 are entitled to equitable and declaratory relief, and if so, the nature of such relief.
16

17 38. **Typicality:** Plaintiff’s claims are typical of the claims of the members of the
18 classes. Plaintiff and all the members of the classes have been injured by the same wrongful
19 practices of Sentinel. Plaintiff’s claims arise from the same practices and course of conduct that
20 give rise to the claims of the members of the Class and Subclass and are based on the same legal
21 theories.
22

23 39. **Adequacy:** Plaintiff will fully and adequately assert and protect the interests of
24 the classes and has retained class counsel who are experienced and qualified in prosecuting class
25 actions. Neither Plaintiff nor its attorneys have any interests contrary to or in conflict with the
26 Class or Subclass.

1 40. **Federal Rule of Civil Procedure 23(b)(1), the Risk of Inconsistent or Varying**
2 **Adjudications and Impairment to Other Class Members’ Interests:** Plaintiff seeks
3 adjudication as to the interpretation, and resultant scope, of Defendant’s policies, which are
4 common to all members of the Class and Subclass. The prosecution of separate actions by
5 individual members of the classes would risk inconsistent or varying interpretations of those
6 policy terms and create inconsistent standards of conduct for Defendant. The policy
7 interpretations sought by Plaintiff could also impair the ability of absent class members to protect
8 their interests.
9

10 41. **Federal Rule of Civil Procedure 23(b)(2), Declaratory and Injunctive Relief:**
11 Defendant acted or refused to act on grounds generally applicable to Plaintiff and other members
12 of the proposed classes making injunctive relief and declaratory relief appropriate on a classwide
13 basis.
14

15 42. **Federal Rule of Civil Procedure 23(b)(3), Superiority:** A class action is
16 superior to all other available methods of the fair and efficient adjudication of this lawsuit. While
17 the aggregate damages sustained by the classes are likely to be in the millions of dollars, the
18 individual damages incurred by each class member may be too small to warrant the expense of
19 individual suits. Individual litigation creates a risk of inconsistent and/or contradictory decisions
20 and the court system would be unduly burdened by individual litigation of such cases. A class
21 action would result in a unified adjudication, with the benefits of economies of scale and
22 supervision by a single court.
23
24
25
26

1 VI. CAUSES OF ACTION

2 Count One—Declaratory Judgment

3 *(Brought on behalf of the Business Income Coverage Declaratory Relief Class,*
4 *Business Income Coverage Declaratory Relief Washington Subclass, Extended Business*
5 *Income Declaratory Relief Class, Extended Business Income Declaratory Relief Washington*
6 *Subclass, Extra Expense Declaratory Relief Class, Extra Expense Declaratory Relief*
7 *Washington Subclass, Civil Authority Declaratory Relief Class, and Civil Authority*
8 *Declaratory Relief Washington Subclass)*

9 43. Previous paragraphs alleged are incorporated herein.

10 44. This is a cause of action for declaratory judgment pursuant to the Declaratory
11 Judgment Act, codified at 28 U.S.C. § 2201.

12 45. Plaintiff brings this cause of action on behalf of the Business Income Coverage
13 Declaratory Relief Class, Business Income Coverage Declaratory Relief Washington Subclass,
14 Extended Business Income Declaratory Relief Class, Extended Business Income Declaratory
15 Relief Washington Subclass, Extra Expense Declaratory Relief Class, and Extra Expense
16 Declaratory Relief Washington Subclass, Civil Authority Declaratory Relief Class, and Civil
17 Authority Declaratory Relief Washington Subclass.

18 46. Plaintiff seeks a declaratory judgment declaring that Plaintiff's and class members
19 losses and expenses resulting from the interruption of their business are covered by the Policy.

20 47. Plaintiff seeks a declaratory judgment declaring that Sentinel is responsible for
21 timely and fully paying all such claims.

22 Count Two—Breach of Contract

23 *(Brought on behalf of the Business Income Coverage Breach of Contract Class,*
24 *Business Income Coverage Breach of Contract Washington Subclass, Extended Business*
25 *Income Breach of Contract Class, Extended Business Income Breach of Contract Washington*
26 *Subclass, Extra Expense Breach of Contract Class, Extra Expense Breach of Contract*
Washington Subclass Civil Authority Breach of Contract Class, and Civil Authority Breach of
Contract Washington Subclass)

1 48. Previous paragraphs alleged are incorporated herein.

2 49. Plaintiff brings this cause of action on behalf of the Business Income Coverage
3 Breach of Contract Class, Business Income Coverage Breach of Contract Washington Subclass,
4 Extended Business Income Breach of Contract Class, Extended Business Income Breach of
5 Contract Washington Subclass, Extra Expense Breach of Contract Class, Extra Expense Breach
6 of Contract Washington Subclass, Civil Authority Breach of Contract Class, and Civil Authority
7 Breach of Contract Washington Subclass.
8

9 50. The Policy is a contract under which Plaintiff and the class paid premiums to
10 Sentinel in exchange for Sentinel's promise to pay Plaintiff and the class for all claims covered
11 by the Policy.

12 51. Plaintiff has paid its insurance premiums.

13 52. Upon information and belief, Sentinel denied coverage for other similarly situated
14 policyholders.
15

16 53. Denying coverage for the claim is a breach of the insurance contract.

17 54. Plaintiff is harmed by the breach of the insurance contract by Sentinel.

18 **VII. PRAYER**

19 1. A declaratory judgment that the policy or policies cover Plaintiff's losses and
20 expenses resulting from the interruption of Plaintiff's business related to COVID-19 and/or
21 orders issued by Governor Inslee, other Governors, and/or other authorities.
22

23 2. A declaratory judgment that Defendant is responsible for timely and fully paying
24 all such losses.

25 3. Damages.
26

- 1 4. Pre- and post-judgment interest at the highest allowable rate.
2 5. Reasonable attorney fees and costs.
3 6. Such further and other relief as the Court shall deem appropriate.
4

5 **VIII. JURY DEMAND**

6 Plaintiff demands a jury trial on all claims so triable.

7 DATED this 12th day of May, 2020.

8 KELLER ROHRBACK L.L.P.

9 By: s/ Amy Williams-Derry

10 By: s/ Lynn L. Sarko

11 By: s/ Ian S. Birk

12 By: s/ Gretchen Freeman Cappio

13 By: s/ Irene M. Hecht

14 By: s/ Maureen Falecki

15 By: s/ Nathan L. Nanfelt

16 Amy Williams-Derry, WSBA #28711

17 Lynn L. Sarko, WSBA #16569

18 Ian S. Birk, WSBA #31431

19 Gretchen Freeman Cappio, WSBA #29576

20 Irene M. Hecht, WSBA #11063

21 Maureen Falecki, WSBA #18569

22 Nathan Nanfelt, WSBA #45273

23 1201 Third Avenue, Suite 3200

24 Seattle, WA 98101

25 Telephone: (206) 623-1900

26 Fax: (206) 623-3384

Email: awilliams-derry@kellerrohrback.com

Email: lsarko@kellerrohrback.com

Email: ibirk@kellerrohrback.com

Email: gcappio@kellerrohrback.com

Email: ihecht@kellerrohrback.com

Email: mfalecki@kellerrohrback.com

Email: nnanfelt@kellerrohrback.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

By: s/Alison Chase
Alison Chase, *pro hac vice forthcoming*
801 Garden Street, Suite 301
Santa Barbara, CA 93101
Telephone: (805) 456-1496
Fax: (805) 456-1497
Email: achase@kellerrohrback.com

Attorneys for Plaintiff

4812-5686-0347, v. 2