

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

COVER SHEET

<p>Plaintiff(s)</p> <p>ALLEGHENY HEALTH NETWORK; ALLEGHENY HEALTH NETWORK SURGERY CENTER - BETHEL PARK LLC; AHN EMERUS LLC; AHN EMERUS WESTMORELAND, LLC; GROVE CITY MEDICAL CENTER; WOLF CREEK MEDICAL ASSOCIATES; MONROEVILLE ASC LLC; KLINGENSMITH, INC.; PHYSICIAN PARTNERS OF WESTERN PA LLC; PROVIDER PPI LLC; PDL DISTRIBUTION SERVICES LLC; HMPG PHARMACY LLC; WEXFORD MEDICAL MALL LLC; SAINT VINCENT REHAB SOLUTIONS, LLC; SAINT VINCENT CONSULTANTS IN CARDIOVASCULAR DISEASES, LLC; TRISTATE REGIONAL ASSOCIATES LLP; . . .</p>	<p align="center">CIVIL DIVISION</p> <hr/> <p>Case Number :</p> <div style="border: 1px solid black; padding: 2px; display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px 10px; margin-right: 5px;">GD</div> - <div style="border: 1px solid black; width: 40px; height: 20px; margin-right: 5px;"></div> - <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div> <hr/> <p>Type of pleading :</p> <p style="margin-left: 20px;">Complaint in Civil Action</p> <hr/> <p>Code and Classification : _____</p> <hr/> <p>Filed on behalf of</p> <p style="margin-left: 20px;">ALLEGHENY HEALTH NETWORK (and all other plaintiffs)</p> <hr/> <p>(Name of the filing party)</p> <hr/> <p><input checked="" type="checkbox"/> Counsel of Record <input type="checkbox"/> Individual, If Pro Se</p> <hr/> <p align="center">Required Information:</p> <p>Name: Matthew J. Louik Address: REED SMITH LLP 225 Fifth Ave. Pittsburgh, PA 15222 Phone Number: 412-288-7282 Email Address: mlouik@reedsmith.com</p> <hr/> <p>Attorney's State ID : <u>311376</u></p> <hr/> <p>Attorney's Firm ID : <u>234</u></p>
<p align="center">Vs</p> <p>Defendant(s)</p> <p>AMERICAN GUARANTEE AND LIABILITY INSURANCE COMPANY</p>	

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**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

COVER SHEET

<p>Plaintiff(s)</p> <p>. . . ASSOCIATED CLINICAL LABORATORIES OF PENNSYLVANIA, LLC; ASSOCIATED CLINICAL LABORATORIES, LP; WEST PENN ALLEGHENY HEALTH SYSTEM, INC. d/b/a/ ALLEGHENY GENERAL HOSPITAL, WEST PENN HOSPITAL, AND FORBES HOSPITAL; ALLEGHENY CLINIC MEDICAL ONCOLOGY; WEST PENN ALLEGHENY FOUNDATION, LLC; MCCANDLESS ENDOSCOPY CENTER LLC; NORTH SHORE ENDOSCOPY CENTER LLC; ALLEGHENY CLINIC; CANONSBURG GENERAL HOSPITAL; ALLE-KISKI MEDICAL CENTER; ALLEGHENY SINGER RESEARCH INSTITUTE; PREMIER MEDICAL ASSOCIATES, PC; . . .</p>	<p align="center">CIVIL DIVISION</p> <hr/> <p>Case Number :</p> <div style="border: 1px solid black; padding: 2px; display: inline-block; margin-right: 10px;">GD</div> - <div style="border: 1px solid black; width: 40px; height: 20px; display: inline-block;"></div> - <div style="border: 1px solid black; width: 60px; height: 20px; display: inline-block;"></div> <hr/> <p>Type of pleading :</p> <p style="margin-left: 20px;">Complaint in Civil Action</p> <hr/> <p>Code and Classification : _____</p> <hr/> <p>Filed on behalf of</p> <p style="margin-left: 20px;">ALLEGHENY HEALTH NETWORK (and all other plaintiffs)</p> <hr/> <p>(Name of the filing party)</p> <hr/> <p><input checked="" type="checkbox"/> Counsel of Record <input type="checkbox"/> Individual, If Pro Se</p> <hr/> <p align="center">Required Information:</p> <p>Name: Matthew J. Louik Address: REED SMITH LLP 225 Fifth Ave. Pittsburgh, PA 15222 Phone Number: 412-288-7282 Email Address: mlouik@reedsmith.com</p> <hr/> <p>Attorney's State ID : <u>311376</u></p> <hr/> <p>Attorney's Firm ID : <u>234</u></p>
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**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

COVER SHEET

<p>Plaintiff(s)</p> <p>. . . PREMIER WOMEN'S HEALTH; CANONSBURG GENERAL HOSPITAL AMBULANCE SERVICES; WATERFRONT SURGERY CENTER, LLC; JEFFERSON MEDICAL ASSOCIATES, LP; SOUTH HILLS SURGERY CENTER, LLC; SAINT VINCENT HEALTH CENTER; REGIONAL HEART NETWORK; SAINT VINCENT HEALTH SYSTEM; ALLEGHENY HEALTH NETWORK HOME INFUSION, LLC; SAINT VINCENT MEDICAL EDUCATION & RESEARCH INSTITUTE, INC.; WESTFIELD MEMORIAL HOSPITAL, INC.; and CHAUTAUQUA MEDICAL PRACTICE P.C.</p>	<p align="center">CIVIL DIVISION</p> <p>Case Number : <div style="border: 1px solid black; padding: 2px; display: inline-block; margin-right: 5px;">GD</div> - <div style="border: 1px solid black; width: 40px; height: 20px; display: inline-block;"></div> - <div style="border: 1px solid black; width: 60px; height: 20px; display: inline-block;"></div> </p> <p>Type of pleading : <div style="border: 1px solid black; padding: 2px; display: inline-block; width: 80%;">Complaint in Civil Action</div> </p> <p>Code and Classification : _____</p> <p>Filed on behalf of <div style="border: 1px solid black; padding: 2px; display: inline-block; width: 80%;">ALLEGHENY HEALTH NETWORK (and all other plaintiffs)</div> </p> <p>(Name of the filing party)</p> <p><input checked="" type="checkbox"/> Counsel of Record <input type="checkbox"/> Individual, If Pro Se</p> <p align="center">Required Information:</p> <p>Name: Matthew J. Louik Address: REED SMITH LLP 225 Fifth Ave. Pittsburgh, PA 15222 Phone Number: 412-288-7282 Email Address: mlouik@reedsmith.com</p> <p>Attorney's State ID : <u>311376</u></p> <p>Attorney's Firm ID : <u>234</u></p>
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ALLEGHENY HEALTH NETWORK

ALLEGHENY HEALTH NETWORK SURGERY
CENTER – BETHEL PARK LLC

AHN EMERUS LLC

AHN EMERUS WESTMORELAND, LLC

GROVE CITY MEDICAL CENTER

WOLF CREEK MEDICAL ASSOCIATES

MONROEVILLE ASC LLC

KLINGENSMITH, INC.

PHYSICIAN PARTNERS OF WESTERN PA LLC

PROVIDER PPI LLC

PDL DISTRIBUTION SERVICES LLC

HMPG PHARMACY LLC

WEXFORD MEDICAL MALL LLC

SAINT VINCENT REHAB SOLUTIONS, LLC

SAINT VINCENT CONSULTANTS IN
CARDIOVASCULAR DISEASES, LLC

TRISTATE REGIONAL ASSOCIATES LLP

ASSOCIATED CLINICAL LABORATORIES OF
PENNSYLVANIA, LLC

ASSOCIATED CLINICAL LABORATORIES, LP

WEST PENN ALLEGHENY HEALTH SYSTEM,
INC. d/b/a/ ALLEGHENY GENERAL HOSPITAL,
WEST PENN HOSPITAL, AND FORBES
HOSPITAL

ALLEGHENY CLINIC MEDICAL ONCOLOGY

WEST PENN ALLEGHENY FOUNDATION, LLC

MCCANDLESS ENDOSCOPY CENTER LLC

CIVIL ACTION

No.

COMPLAINT

Filed on behalf of Plaintiffs

Counsel of Record for Plaintiffs:

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Matthew J. Louik
Pa. Id. No. 311376
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JURY TRIAL DEMANDED

NORTH SHORE ENDOSCOPY CENTER LLC

ALLEGHENY CLINIC

CANONSBURG GENERAL HOSPITAL

ALLE-KISKI MEDICAL CENTER

ALLEGHENY SINGER RESEARCH INSTITUTE

PREMIER MEDICAL ASSOCIATES, PC

PREMIER WOMEN'S HEALTH

CANONSBURG GENERAL HOSPITAL
AMBULANCE SERVICES

WATERFRONT SURGERY CENTER, LLC

JEFFERSON MEDICAL ASSOCIATES, LP

SOUTH HILLS SURGERY CENTER, LLC

SAINT VINCENT HEALTH CENTER

REGIONAL HEART NETWORK

SAINT VINCENT HEALTH SYSTEM

ALLEGHENY HEALTH NETWORK HOME
INFUSION, LLC

SAINT VINCENT MEDICAL EDUCATION &
RESEARCH INSTITUTE, INC.

WESTFIELD MEMORIAL HOSPITAL, INC.

CHAUTAUQUA MEDICAL PRACTICE P.C.

Plaintiffs

v.

AMERICAN GUARANTEE AND LIABILITY
INSURANCE COMPANY

Defendant.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT
HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE
OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH
INFORMATION ABOUT HIRING A LAWYER.**

**LAWYER REFERRAL SERVICE
ALLEGHENY COUNTY BAR ASSOCIATION
400 KOPPERS BUILDING
436 SEVENTH AVE.
PITTSBURGH, PENNSYLVANIA 15219**

Telephone: (412) 261-5555

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ALLEGHENY HEALTH NETWORK

ALLEGHENY HEALTH NETWORK SURGERY
CENTER – BETHEL PARK LLC

AHN EMERUS LLC

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JURY TRIAL DEMANDED

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INFUSION, LLC

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RESEARCH INSTITUTE, INC.

WESTFIELD MEMORIAL HOSPITAL, INC.

CHAUTAUQUA MEDICAL PRACTICE P.C.

Plaintiffs

v.

AMERICAN GUARANTEE AND LIABILITY
INSURANCE COMPANY

Defendant.

COMPLAINT

Plaintiffs, Allegheny Health Network; Westfield Memorial Hospital, Inc.; Chautauqua Medical Practice P.C.; Allegheny Health Network Surgery Center – Bethel Park LLC; AHN Emerus LLC; AHN Emerus Westmoreland, LLC; Grove City Medical Center; Wolf Creek Medical Associates; Monroeville ASC LLC; Klingensmith, Inc.; Physician Partners of Western PA LLC; Provider PPI LLC; PDL Distribution Services LLC; HMPG Pharmacy LLC; Wexford Medical Mall LLC; Saint Vincent Rehab Solutions, LLC; Saint Vincent Consultants in Cardiovascular Diseases, LLC; Tristate Regional Associates LLP; Associated Clinical Laboratories of Pennsylvania, LLC; Associated Clinical Laboratories, LP; West Penn Allegheny Health System, Inc. d/b/a Allegheny General Hospital, West Penn Hospital, and Forbes Hospital (“West Penn Allegheny Health System, Inc.”); Allegheny Clinic Medical Oncology; West Penn Allegheny Foundation, LLC; McCandless Endoscopy Center, LLC; North Shore Endoscopy Center, LLC; Allegheny Clinic; Canonsburg General Hospital; Alle-Kiski Medical Center; Allegheny Singer Research Institute; Premier Medical Associates, PC; Premier Women’s Health; Canonsburg General Hospital Ambulance Service; Waterfront Surgery Center, LLC; Jefferson Medical Associates, LP; South Hills Surgery Center, LLC; Saint Vincent Health Center; Regional Heart Network; Saint Vincent Health System; Allegheny Health Network Home Infusion, LLC; and Saint Vincent Medical Education & Research Institute, Inc. (collectively, “AHN”), by their undersigned counsel, Reed Smith LLP, hereby submit their Complaint against Defendant, American Guarantee and Liability Insurance Company (“AGLIC”), and in support thereof, aver as follows:

INTRODUCTION

1. This is an action for a declaratory judgment, breach of contract, breach of the implied covenant of good faith and fair dealing, and bad faith insurance practices under 42 Pa.

Cons. Stat. Ann. § 8371, arising out of AGLIC's refusal to provide insurance coverage to AHN under the Zurich EDGE Healthcare Policy that AGLIC sold to AHN (the "Policy").

2. To protect against business interruption caused by communicable disease and other physical loss of or damage to property and related costs and expenses, including to prevent other loss or damage, AHN purchased from AGLIC Policy No. ZMD9459414-06 for the period of October 15, 2019 to October 15, 2020. A true and correct copy of the Policy is attached hereto as **Exhibit A**.

3. AHN seeks a declaration in this action that AGLIC owes AHN coverage for multiple occurrences under multiple provisions of the Policy relating to AHN's losses due to COVID-19, and that AGLIC breached the Policy, breached the covenant of good faith and fair dealing and acted in bad faith, including by denying AHN's claim.

PARTIES

4. Plaintiff Allegheny Health Network is a Pennsylvania corporation, with its principal place of business at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222.

5. At all relevant times, AHN was and still is in the business of providing healthcare services through a number of subsidiaries and operating locations. AHN's locations insured under the Policy include, among others, those set forth in a Schedule of Locations referenced in the Policy and Locations described in the Policy (collectively, the "Locations").

6. Westfield Memorial Hospital, Inc. is a New York corporation with a registered address and principal place of business at 189 East Main Street, Westfield, NY 14787. It is an indirect subsidiary of AHN.

7. Chautauqua Medical Practice P.C. is a New York corporation with a registered address at 3400 HSBC Center, Buffalo, New York, 14203 and a principal place of business at 4936 Main Street, Bemus Point, New York 14712. It is an indirect subsidiary of AHN.

8. Allegheny Health Network Surgery Center – Bethel Park LLC is a Pennsylvania limited liability company with a registered address at 1000 Higbee Drive, Bethel Park, PA 15102 and a principal place of business in Pennsylvania. It is a direct subsidiary of AHN.

9. AHN Emerus LLC is a Pennsylvania limited liability company with a registered address at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is a direct subsidiary of AHN.

10. AHN Emerus Westmoreland, LLC is a Pennsylvania limited liability company with a principal place of business at 3290 Saw Mill Run Boulevard, Pittsburgh, PA 15227. It is an indirect subsidiary of AHN.

11. Grove City Medical Center is a Pennsylvania corporation with a registered address at 631 North Broad Street, Grove City, PA 16127 and a principal place of business in Pennsylvania. It is a direct subsidiary of AHN.

12. Wolf Creek Medical Associates is a Pennsylvania corporation with a registered address at 631 North Broad Street, Grove City, PA 16127 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

13. Monroeville ASC LLC is a Pennsylvania limited liability company with a registered address at 120 Fifth Avenue, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

14. Klingensmith, Inc. is a Pennsylvania corporation with a registered address at 404 Ford Street, Ford City, PA 16226 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

15. Physician Partners of Western PA LLC is a Pennsylvania limited liability company with a registered address at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

16. Provider PPI LLC is a Pennsylvania limited liability company with a registered address at 120 Fifth Avenue, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

17. PDL Distribution Services LLC is a Pennsylvania limited liability company with a registered address at 120 Fifth Avenue, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

18. HMPG Pharmacy LLC is a Pennsylvania limited liability company with a registered address at 120 Fifth Avenue, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

19. Wexford Medical Mall LLC is a Pennsylvania limited liability company with a registered address at 20421 Route 19, Suite 115, Cranberry Township, PA 16066 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

20. Saint Vincent Rehab Solutions, LLC is a Pennsylvania limited liability company with a registered address at 1910 Sassafras Street, Suite 200, Erie, PA 16502 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

21. Saint Vincent Consultants in Cardiovascular Diseases, LLC is a Pennsylvania limited liability company with a registered address at 232 West 25th Street, Erie, PA 16544 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

22. Tristate Regional Associates LLP is a Pennsylvania limited liability partnership with a registered address at 1526 Peach Street, Erie, PA 16501 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

23. Associated Clinical Laboratories of Pennsylvania, LLC is a Pennsylvania limited liability company with a registered address at 1526 Peach Street, Erie, PA 16501 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

24. Associated Clinical Laboratories, LP is a Pennsylvania limited partnership with a registered address at 1526 Peach Street, Erie, PA 16501 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

25. West Penn Allegheny Health System, Inc. is a Pennsylvania corporation with a registered address at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is a direct subsidiary of AHN.

26. Allegheny Clinic Medical Oncology is a Pennsylvania corporation with a registered address at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

27. West Penn Allegheny Foundation, LLC is a Pennsylvania limited liability company with a registered address at 320 East North Avenue, Pittsburgh, PA 15212 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

28. McCandless Endoscopy Center, LLC is a Pennsylvania limited liability company with a registered address at 9335 McKnight Road, Suite 200, Pittsburgh, PA 15237 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

29. North Shore Endoscopy Center, LLC is a Pennsylvania limited liability company with a registered address at 1307 Federal Street, Suite 101, Pittsburgh PA 15212 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

30. Allegheny Clinic is a Pennsylvania corporation with a registered address at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

31. Canonsburg General Hospital is a Pennsylvania corporation with a registered address at 320 East North Avenue, Pittsburgh, PA 15212 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

32. Alle-Kiski Medical Center is a Pennsylvania corporation with a registered address at 1301 Carlisle Street, Natrona Heights, PA 15065 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

33. Allegheny Singer Research Institute is a Pennsylvania corporation with a registered address at 320 East North Avenue, Pittsburgh, PA 15212 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

34. Premier Medical Associates, PC is a Pennsylvania corporation with a registered address at 3824 Northern Pike, Suite 200, Monroeville, PA 15146 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

35. Premier Women's Health is a Pennsylvania corporation with a registered address at 120 Fifth Avenue, Suite 2900, Pittsburgh, PA 15222 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

36. Canonsburg General Hospital Ambulance Service is a Pennsylvania corporation with a registered address at 320 East North Avenue, Pittsburgh, PA 15212 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

37. Waterfront Surgery Center, LLC is a Pennsylvania limited liability company with a registered address at 495 East Waterfront Drive Homestead, Allegheny, PA 15120 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

38. Jefferson Medical Associates, LP is a Pennsylvania limited partnership with a registered address at Wendil Center Route 51, Belle Vernon, PA 15012 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

39. South Hills Surgery Center, LLC is a Pennsylvania limited liability company with a registered address at 6161 Clairton Road, West Mifflin, PA 15122 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

40. Saint Vincent Health Center is a Pennsylvania corporation with a registered address at 232 West 25th Street, Erie, PA 16544 and a principal place of business in Pennsylvania. It is a direct subsidiary of AHN.

41. Regional Heart Network is a Pennsylvania corporation with a registered address at 232 West 25th Street, Erie, PA 16544 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

42. Saint Vincent Health System is a Pennsylvania corporation with a registered address at 232 West 25th Street, Erie, PA 16544 and a principal place of business in Pennsylvania. It is a direct subsidiary of AHN.

43. Allegheny Health Network Home Infusion, LLC is a Pennsylvania limited liability company with a registered address at 1305 South Main Street, Meadville, PA 16335 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

44. Saint Vincent Medical Education & Research Institute, Inc. is a Pennsylvania corporation with a registered address at 232 West 25th Street, Erie, PA 16544 and a principal place of business in Pennsylvania. It is an indirect subsidiary of AHN.

45. At all relevant times, Defendant, AGLIC, was and continues to be an insurance company organized and existing under the laws of the State of New York with its principal place of business located at 1299 Zurich Way, Schaumburg, Illinois 60173. AGLIC sells policies of insurance, including property and business interruption insurance policies.

46. At all relevant times AGLIC was, and presently is, duly authorized to transact the business of insurance in the Commonwealth of Pennsylvania and is in fact transacting the business of insurance in the Commonwealth of Pennsylvania.

JURISDICTION AND VENUE

47. This Court has jurisdiction pursuant to 42 Pa. C.S.A. § 931.

48. This Court has jurisdiction over AGLIC pursuant to 42 Pa. C.S.A. § 5301 and § 5322 because AGLIC: (1) is incorporated under or qualified to do business as corporations under the laws of Pennsylvania; and/or (2) has consented to the exercise of jurisdiction in Pennsylvania; and/or (3) has carried on a continuous and systematic part of its general business in Pennsylvania; and/or (4) has transacted business within Pennsylvania by, *inter alia*, doing acts in Pennsylvania

for the purpose of realizing pecuniary benefits, contracting to supply services in Pennsylvania and/or contracting to insure persons, property or risks located within Pennsylvania.

49. Venue is proper in this Court pursuant to Rules 1006 and 2179 of the Pennsylvania Rules of Civil Procedure because, *inter alia*, Allegheny Health Network is based in Allegheny County.

FACTUAL BACKGROUND

A. AHN

50. AHN is an integrated health network with 13 hospitals, approximately 21,000 employees, and hundreds of Locations providing a variety of healthcare services.

51. AHN's Locations covered by the Policy include each of AHN's numerous individual Locations in Pennsylvania and New York.

52. Prior to the onset of the pandemic, AHN was a consistently profitable health network and it currently serves 29 Pennsylvania counties and portions of New York.

B. The Policy

53. Allegheny Health Network is the First Named Insured under the Policy, which insures all Insured Locations unless otherwise provided in the policy, including all AHN Locations listed on the Schedule of Locations, those covered as Miscellaneous Unnamed Locations, and those covered under Newly Acquired Coverage or Errors and Omissions Coverage.

54. The Policy has a Limit of Liability of \$1,000,000,000 for the total of all coverages combined regardless of the number of Locations involved. The Limit of Liability is subject to certain sublimits within a coverage part set forth in greater detail in the Policy's Declarations.

55. Under the Insuring Agreement, the Policy insures against "direct physical loss of or damage caused by a **Covered Cause of Loss** to Covered Property, at an Insured Location

described in Section II-2.01, all subject to the terms conditions and exclusions stated in this Policy.
...”

56. The term “Covered Cause of Loss” is defined in Section 7.11 of the Policy as “[a]ll risks of direct physical loss of or damage from any cause unless excluded.”

57. Section 5.02.35 of the Policy titled “Interruption by Communicable Disease” confirms “Communicable Disease” is a Covered Cause of Loss:

The Company will pay for the actual Gross Earnings loss sustained by the Insured, as provided by this Policy, resulting from the necessary **Suspension** of the Insured’s business activities at an Insured Location if the **Suspension** is caused by an order of an authorized governmental agency enforcing any law or ordinance regulating communicable disease and that such portions of the location are declared uninhabitable due to the threat of the spread of communicable disease, prohibiting access to those portions of the **Location**.

This Policy also covers the reasonable and necessary costs incurred for the cleanup, removal and disposal of the actual not suspected presence of substance(s) causing the spread of such communicable disease and to restore the locations in a manner so as to satisfy such authorized governmental agency.

This Coverage will only apply when the period of time that access is prohibited exceeds the time shown as **Qualifying Period** in the **Qualifying Period** clause of the Declarations section. If the **Qualifying Period** is exceeded, then this Policy will pay for the amount of loss in excess of the Policy Deductible, but not to exceed the number of consecutive days following such order as stated in the Declarations up to the limit applying to this Coverage.

This Coverage will not apply to loss or damage that is payable under any other provision in this Policy.

58. The Policy does not contain a definition of “Communicable Disease.”

59. The Policy defines “suspension” as “[t]he slowdown or cessation of the Insured’s business activities” *Id.*, Section VII – Definitions.

60. The Limit of Insurance under the Policy for the Interruption by Communicable Disease coverage is \$100,000, “per occurrence,” and the Qualifying Period is 48 hours. *Id.*, Section II – Declarations.

61. Section 5.02.24 of the Policy titled “Protection and Preservation of Property” confirms coverage is available to avoid damage due to a Covered Cause of Loss:

This Policy covers, up to the limit applying to this Coverage:

5.02.24.01. The reasonable and necessary costs incurred for actions to temporarily protect or preserve Covered Property; provided such actions are necessary due to actual or imminent physical loss or damage due to a **Covered Cause of Loss** to such Covered Property; and

5.02.24.02. The Gross Earnings loss sustained by the Insured for a period of time not to exceed the hours listed in the Declarations prior to and after the Insured first taking reasonable action for the temporary protection and preservation of Covered Property.

62. The coverage available under the Protection and Preservation of Property provision is \$1,000,000 per occurrence. *See* Exhibit A, Section II – Declarations.

63. Similarly, Section 5.02.37 of the Policy titled “Protection of Patients” confirms coverage is available to protect patients by removing or returning them from Insured Locations due to a Covered Cause of Loss:

This Policy insures reasonable and necessary costs incurred for actions to temporarily remove and return patients at the Insured Location; provided such actions are necessary due to impending, physical loss or damage due to a **Covered Cause of Loss** to Covered Property when the cost is in excess of the amount stated in the Declarations. No deductible applies to this Coverage.

This coverage will not apply if direct physical loss or damage by a Covered Cause of Loss to Covered Property occurs at the Insured Location.

64. The coverage available under the Protection of Patients provision of the Policy is \$250,000 in excess of \$250,000. *Id.*, Section II – Declarations.

65. Section 4.02.03 of the Policy titled “Extra Expense” confirms coverage is available for reasonable necessary expenses to resume and continue business activities due to a Covered Cause of Loss:

The Company will pay for the reasonable and necessary Extra Expenses incurred by the Insured, including the cost to remove and return patients, during the Period of Liability, to resume and continue as nearly as practicable the Insured's normal business activities that otherwise would be necessarily suspended, due to direct physical loss of or damage caused by a **Covered Cause of Loss** to

Property of the type insurable under this policy at a **Location**.

The Company will reduce the amount payable as Extra Expense by the fair market value remaining at the end of the Period of Liability for property obtained in connection with the above.

Extra Expenses mean that amount spent to continue the Insured's business activities over and above the expenses the Insured would have normally incurred had there been no direct physical loss of or damage caused by a **Covered Cause of Loss** to Property of the type insurable under this policy at a **Location**. Extra Expense does not include any Gross Earnings loss, the cost of permanent repair or replacement of property that has suffered direct physical loss or damage, or expenses otherwise payable elsewhere in the Policy.

66. The coverage available under the Extra Expense provision is \$50,000,000 per occurrence. *Id.*, Section II – Declarations.

67. The Policy defines “Occurrence” as “[a]ll loss(es) or damage that is attributable directly or indirectly to one cause or a series of similar or related causes. . . .” *Id.*, Section VII – Definitions.

68. In recognition of AGLIC’s intent to provide coverage for interruptions, losses and other expenses involving Communicable Disease and loss of or damage to property involving virus, the Policy removes “virus” from the so-called “Contamination” exclusion, and these terms drafted by AGLIC must be interpreted consistently within the Policy as a whole to provide the coverage promised.

69. The Policy contains Exclusion 3.03.01.01, which excludes “Contamination, and any cost due to Contamination including the inability to use or occupy property or any cost of making property safe or suitable for use or occupancy, except as provided by the Radioactive Contamination Coverage of this Policy,” but AGLIC altered the definition of “contamination” to clarify that coverage is provided for losses involving impacts on property by a virus.

70. As originally defined by the Policy at Section 7.09, “Contamination” is “[a]ny condition of property due to the actual presence of any foreign substance, impurity, pollutant,

hazardous material, poison, toxin, pathogen or pathogenic organism, bacteria, virus, disease causing or illness causing agent, Fungus, mold or mildew.”

71. The “Contamination” exclusion set forth above is modified and redefined by endorsement such that “virus” is no longer part of the definition of “Contamination.”

72. In the Endorsement titled, “Amendatory Endorsement – Louisiana,” Exclusion 3.03.01.01, the “Contamination” exclusion, is “deleted in its entirety and replaced by the following: 3.03.01.01. Contamination or asbestos, and any cost due to Contamination or asbestos including the inability to use or occupy property or any cost of making property safe or suitable for use or occupancy.”

73. In the same Endorsement, the definition of “Contamination” in Section VII of the Policy including the reference to “virus” is “deleted” and “replaced” by the following: “Contamination(Contaminated) - Any condition of property due to the actual presence of any Contaminant(s).”

74. In the same Endorsement, the definition of “Contaminant(s)” is “deleted” from Section VII of the Policy and “replaced” with a definition containing no reference to “virus”: “Contaminant(s) - Any solid, liquid, gaseous, thermal or other irritant, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste (including materials to be recycled, reconditioned or reclaimed), other hazardous substances, Fungus or Spores.”

75. The Louisiana Amendatory Endorsement is not limited in application to Louisiana in geographical scope. There is no restriction on the alterations to the Contamination exclusion or the definition of Contamination in the Endorsement itself or elsewhere in the Policy. To the contrary, as noted above, the Policy recognizes Communicable Disease as a Covered Cause of Loss.

C. The COVID-19 Global Pandemic

76. In December 2019, during the term of the Policy, an outbreak of illness known as COVID-19 caused by a novel coronavirus formally known as SARS-CoV-2 was first identified in Wuhan, Hubei Province, China. In an unprecedented event that has not occurred in more than a century, a pandemic of global proportions then ensued, with the virus quickly spreading to Europe and then to the United States.

77. COVID-19 is highly transmissible and spreads rapidly. For example, as of March 1, 2020, there were 87,137 confirmed COVID-19 cases across the globe. That number increased to 823,626 confirmed cases in April 2020 and 3,175,207 cases the following month. *See* <https://graphics.reuters.com/CHINA-HEALTH-MAP/0100B59S39E/index.html>. According to the Centers for Disease Control and Prevention (“CDC”), to date, COVID-19 has infected more than thirty-three million people and killed more than 590,000 in the United States. *See* <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

78. COVID-19 can be transmitted in several ways, including via human-to-human contact, airborne viral particles, particularly within enclosed properties like AHN’s Insured Locations, and touching surfaces or objects that have SARS-CoV-2 virions on them.

79. COVID-19 spreads readily from person to person and person to surface or object. Research has revealed that COVID-19 is primarily spread by small, physical droplets expelled from the nose or mouth when an infected person breathes, talks, coughs, or sneezes. A person who sneezes can release a cloud of SARS-CoV-2-containing droplets that can span as far as 23 to 27 feet. The CDC has stated that SARS-CoV-2 virions are most likely to spread when people are within six feet of each other, but has also recognized that SARS-CoV-2 virions may spread from

an infected person who is more than six feet away or who has left a given space. Further, according to the CDC, longer exposure time likely increases the risk of exposure to COVID-19.

80. Making matters worse, pre-symptomatic and asymptomatic individuals can also transmit COVID-19. At least 44% of all infections occur from people without any symptoms. *See* <https://www.nature.com/articles/s41591-020-0869-5>.

81. Thus, even individuals who appear healthy and present no identifiable symptoms of the disease have and continue to spread the virus by breathing, speaking, or touching objects and surfaces. These activities deposit SARS-CoV-2 virions in the air and on surfaces, rendering the air and surfaces changed from their previous condition. According to the World Health Organization (the “WHO”), the incubation period for COVID-19, i.e., the time between exposure to SARS-CoV-2 and symptom onset, can be up to 14 days. Other studies suggest that the period may be up to 21 days.

82. Before infected individuals exhibit symptoms, i.e., the so-called “pre-symptomatic” period, they are most contagious, as their viral loads will likely be very high, and they may not know they have become carriers. In addition, studies from the CDC and others estimate that between 40% to 70% of infected individuals may never become symptomatic (referred to as “asymptomatic” carriers). Pre-symptomatic and asymptomatic carriers are likely unaware that they are spreading SARS-CoV-2 by merely touching objects and surfaces, or by expelling droplets into the air. The National Academy of Sciences has found that the majority of transmission is attributable to people who are not showing symptoms, either because they are pre-symptomatic or asymptomatic.

83. Although these virus-containing droplets are very small, they are still physical objects that can travel within property, suspend within the air of property, and attach to surfaces,

such as tables and door handles, and cause harm, loss, and damage, and physically alter the property and/or the integrity of the property. Viruses, themselves, are microscopic and made up of genetic material surrounded by a protein shell, but they are capable of being observed and can attach themselves to other things they encounter. *See* <https://rockedu.rockefeller.edu/component/what-are-viruses-made-of>. When droplets and viruses make contact with surfaces and objects, they alter those surfaces and objects, although not in way perceptible by the naked human eye. Particularly at the height of the pandemic, these virus-containing droplets physically exist and existed ubiquitously in the communities, Locations and buildings in which AHN operated.

84. According to the CDC and the WHO, a person may become infected by touching these surfaces or objects that have SARS-CoV-2 on them, and then touching his or her mouth, eyes, or nose. When an uninfected person touches a surface containing SARS-CoV-2, the uninfected person may transmit COVID-19 to another person, by touching and infecting a second surface, which is subsequently touched by that other person. The CDC has thus recommended certain physical and structural remedial measures for businesses to put into place in order to limit transmission and continued surface alteration.

85. Numerous scientific studies have reported that SARS-CoV-2 can survive and persist within the air and on surfaces and buildings after infected persons are present at a given location. Studies have found that SARS-CoV-2 remains active and dangerous suspended in the air in properties and on common surfaces, including plastic, stainless steel, glass, wood, cloth, ceramics, rubber, and even money. *See, e.g.,* [https://www.thelancet.com/journals/lanmic/article/PIIS2666-5247\(20\)30003-3/fulltext](https://www.thelancet.com/journals/lanmic/article/PIIS2666-5247(20)30003-3/fulltext); <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4659470/>; <https://www.nih.gov/news->

events/nih-research-matters/study-suggests-new-coronavirus-may-remain-surfaces-days. All of these materials are widely present at AHN's Insured Locations and subject to touch by the multitudes of people visiting AHN's Insured Locations daily, which as indoor locations are also susceptible to spread in enclosed airspaces and through building ventilation systems.

86. Indoor spaces, especially highly trafficked ones like AHN's Insured Locations, are reportedly particularly susceptible to circumstances favorable to the spread of SARS-CoV-2 virions. A recent article published by the CDC analyzed a case study of three families (families A, B, and C) who had eaten at an air-conditioned restaurant in Guangzhou, China. See https://wwwnc.cdc.gov/eid/article/26/7/20-0764_article. One member of family A, patient A1, had recently traveled from Wuhan, China. On January 24, 2020, that family member ate at a restaurant with families A, B, and C. By February 5, 2020, 4 members of family A, 3 members of family B, and 2 members of family C had become ill with COVID-19. The only known source for those affected persons in families B and C was patient A1 at the restaurant. Moreover, a study detected SARS-CoV-2 inside the HVAC system connected to hospital rooms of sick patients. The study found SARS-CoV-2 in ceiling vent openings, vent exhaust filters, and ducts located as much as 56 meters (over 183 feet) from the rooms of the sick patients. See Karolina Nissen, et al., *Long-distance airborne dispersal of SARS-CoV-2 in COVID-19 wards*, 10 NATURE SCI. REPORTS 19589 (Nov. 11, 2020), <https://doi.org/10.1038/s41598-020-76442-2> (last visited May 25, 2021).

87. Additionally, the CDC has stated that "there is evidence that under certain conditions, people with COVID-19 seem to have infected others who were more than 6 feet away" and infected people who entered the space shortly after the person with COVID-19 had left. CDC, *Considerations for Restaurants and Bars* (last updated June 14, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars->

restaurants.html (last visited June 17, 2021). A recently published (February 2021) systematic review of airborne transmission of SARS-CoV-2 corroborated the CDC's concerns and recommended procedures to improve ventilation of indoor air environments to decrease bioaerosol concentration and physically reduce potential spread of SARS-CoV-2 in properties like the Insured Locations. See Zahra Noorimotlagh, et al., *A systematic review of possible airborne transmission of the COVID-19 virus (SARS-CoV-2) in the indoor air environment*, 193 ENV'T RSCH. 110612, 1-6 (Feb. 2021), https://www.sciencedirect.com/science/article/pii/S0013935120315097?dgcid=rss_sd_all (last visited May 25, 2021).

88. The CDC has recommended “ventilation interventions” to help reduce exposure to the airborne Coronavirus in indoor spaces, including increasing airflow and air filtration (such as with high-efficiency particulate air (“HEPA”) fan/filtration systems). See CDC, *Ventilation in Buildings* (last updated Feb. 9, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html#:~:text=HEPA%20filters%20are%20even%20more,with%20SARS%2DCoV%2D2> (last visited May 25, 2021). These and other remedial measures must be implemented, at high cost and extra expense, to reduce the amount of the SARS-CoV-2 present in a given space and to make property safe for its intended use. These extreme measures demonstrate direct physical loss of or damage to interior spaces like the Insured Locations.

89. A number of studies have also demonstrated that SARS-CoV-2 is “much more resilient to cleaning than other respiratory viruses so tested.” *Id.* The measures that must be taken to remove the Coronavirus from property are significant and far beyond ordinary or routine cleaning.

90. Efficacy of decontaminating agents for viruses is based on a number of factors, including the initial amount of virus present, contact time with the decontaminating agent, dilution,

temperature, and pH, among many others. Detergent surfactants are not recommended as single agents, but rather in conjunction with complex disinfectant solutions. *Id.*

91. Additionally, it can be challenging to accurately determine the efficacy of decontaminating agents. The toxicity of an agent may inhibit the growth of cells used to determine the presence of virus, making it difficult to determine if lower levels of infectious virus are actually still present on treated surfaces. *Id.*

92. In order to be effective, cleaning and decontamination procedures require strict adherence to protocols not necessarily tested under “real life” or practical conditions, where treated surfaces or objects may not undergo even exposure or adequate contact time. *Id.* Studies of coronaviruses have demonstrated viral RNA persistence on objects despite cleaning with 70% alcohol. *Id.*

93. When considering disinfection and decontamination, the safety of products and procedures must be considered as well, due to the risks of harmful chemical accumulation, breakdown of treated materials, flammability, and potential for allergen exposure. *Id.*

94. Moreover, the aerosolized SARS-CoV-2 particles and virions cannot be eliminated by routine cleaning. Cleaning surfaces in an indoor space will not remove the aerosolized SARS-CoV-2 particles and virions from the air that people can inhale and develop COVID-19 – no more than cleaning friable asbestos particles that have landed on a surface will remove the friable asbestos particles suspended in the air that people can inhale.

95. Moreover, given the ubiquity and pervasiveness of SARS-CoV-2, no amount of cleaning or ventilation intervention will prevent a person infected and contagious with the virus from entering an indoor space like the Insured Locations and exhaling millions of additional particles and virions into the air, further: (a) filling the air with the aerosolized SARS-CoV-2

virions that can be inhaled, sometimes with deadly consequences; and (b) depositing SARS-CoV-2 particles and virions on surfaces, physically altering and transforming those surfaces into disease-transmitting fomites.

D. National, State, and Local Governmental Orders In Response to COVID-19

96. Beginning in mid-March 2020, national, state and local governments with authority over the Insured Locations imposed closure orders in response to the ubiquitous presence and rapid spread of SARS-CoV-2 virions and COVID-19 and in an effort to regulate and slow community spread of COVID-19. To reduce and contain person-to-person and person-to-property-to-person transmission of the disease, these public authority orders mandated closure to the public at large and discontinuance or curtailment of operations of certain businesses deemed “non-essential” or aspects of business deemed non-essential. A non-exhaustive list of state public authority orders in jurisdictions affecting AHN’s Insured Locations is attached hereto as **Exhibit B**.

97. Because of the unique circumstances facing each of AHN’s Insured Locations together with varying state public authority orders, including those concerning elective procedures, mandatory COVID-19 testing for patients and PPE requirements, guest or visitor restrictions, and reporting of information to the state, and different exposures to communicable disease and related risks, AHN’s Insured Locations each suffered a substantial loss of business income due to necessary interruption of their businesses, in whole or in part, as a result of the physical loss of the premises for ordinary and usual occupancy and business use, loss of functionality, and loss of economic utility.

Pennsylvania

98. For example, Governor Thomas Wolf and the Pennsylvania Department of Health issued various orders in response to the presence and spread of COVID-19, including an order dated March 19, 2020, prohibiting the operation of businesses that were not life sustaining, and an

order dated April 1, 2020, ordering all Pennsylvanians to “stay at home except as needed to access, support, or provide life-sustaining business, emergency, or government services” (collectively, the “Pennsylvania Public Authority Orders”).

99. On March 27, 2020, Governor Wolf amended the “Stay at Home” mandate to apply to “[a]ll individuals residing in Allegheny County, Berks County, Bucks County, Butler County, Chester County, Delaware County, Erie County, Lackawanna County, Lancaster County, Lehigh County, Luzerne County, Monroe County, Montgomery County, Northampton County, Philadelphia County, Pike County, Wayne County, Westmoreland County, and York County are ordered to stay at home except as needed to access, support, or provide life sustaining business, emergency, or government services.” The March 27, 2020 order also stated that “[e]nforcement of this Order with respect to Berks, Butler, Lackawanna, Lancaster, Luzerne, Pike, Wayne, Westmoreland, and York Counties will commence at 8:00 PM on March 27, 2020.”

100. On April 1, 2020, the Pennsylvania Department of Health issued a Guidance on Ambulatory Surgical Facilities’ (ASF) Responses to COVID-19, which stated that “[a]fter 11:59pm on March 20, 2020, ASFs may not perform any elective surgeries or procedures unless the surgery or procedure would preserve organ function or avoid further harms from an underlying condition or disease . . . Pursuant to 28 Pa. Code § 551.21(d)(4), ASFs may not allow the performance of surgeries to treat emergency or life-threatening conditions to occur in the facility, unless no hospital is available for the procedure and the need for the surgery could not have been anticipated.”

101. On or about April 15, 2020, the Secretary of the Pennsylvania Department of Health issued an order directing “where feasible, businesses should conduct business with the public by appointment only and to the extent that this is not feasible, businesses must limit occupancy to no

greater than 50% of the number stated on the applicable certificate of occupancy at any given time, as necessary to reduce crowding in the business.” This Pennsylvania Department of Health order also required businesses, physically, to “maintain a social distance of 6 feet at check-out and counter lines, and [] place signage through each site to mandate social distancing for both customers and employees.”

102. On November 23, 2020, the Pennsylvania Department of Health ordered that upon notice from the Department, hospitals in the state licensed by the Department pursuant to Section 808 of the Health Care Facilities Act, 35 P.S. § 448.808, must reduce the number of scheduled elective procedures based on metrics relating to hospital staffing shortage, COVID-19 surge, and inadequate medical/surgical bed availability in their region.

103. The Pennsylvania Public Authority Orders referred to the Centers for Disease Control and Prevention’s (“CDC”) declaration of “a public health emergency of international concern” and the National Public Health Declaration as bases for the orders.

104. The restrictions and directives in the Pennsylvania Public Authority and State Department of Health orders in response to the rapid spread of SARS-CoV-2 virions and COVID-19, including the stay at home mandate for individuals not participating in life-sustaining businesses and restrictions on public gatherings, each necessarily interrupted business operations and impaired access in various ways to each of AHN’s Insured Locations operating in the Commonwealth of Pennsylvania.

Recognition by the Supreme Court of Pennsylvania of COVID-19 As A Natural Disaster That Causes Damage to Property.

105. In a decision dated April 13, 2020, the Supreme Court of Pennsylvania recognized the pandemic as a “natural disaster” under Pennsylvania’s Emergency Management Services Code, 35 Pa.C.S. § 7102 (the “Emergency Code”), that triggered the Governor’s powers under 35

Pa.C.S. § 7301, entitled “General authority of Governor.” *Friends of Devito v. Wolf*, 227 A.3d 872, 888 (Pa. 2020). The Emergency Code specifically and expressly authorizes the Pennsylvania Governor to declare a disaster emergency and thereafter to control the ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein. *Id.* at 886.

106. The Emergency Code defines “natural disaster” as “[a]ny hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion or *other catastrophe which results in substantial damage to property, hardship, suffering or possible loss of life.*” (emphasis added). The Supreme Court of Pennsylvania in *Friends of Devito* held that the COVID-19 pandemic qualified as a “natural disaster” because it involves, among other things, “substantial damage to property” 227 A.3d at 889.

New York

107. New York Governor Andrew Cuomo also issued various orders in response to the COVID-19 pandemic, including Executive Order 202.8 on March 20, 2020, which required non-essential businesses to close in-office personnel functions effective March 22, 2020 at 8:00 P.M. On March 20, 2020, Governor Cuomo also issued the “New York State on PAUSE” order, which was a 10-point policy: (i) requiring all non-essential businesses to close, effective March 22, 2020 at 8:00 P.M.; (ii) prohibiting non-essential gatherings of any size; and (iii) requiring social distancing when leaving the home to obtain essential services or items.

108. On March 23, 2020, Governor Cuomo ordered the Commissioner of Health to direct “all general hospitals, ambulatory surgery centers, office-based surgery practices and

diagnostic and treatment centers to increase the number of beds available to patients, including by canceling all elective surgeries and procedures, as the Commissioner of Health shall define.”

E. Confirmed COVID-19 Cases at AHN’s Insured Properties

109. There were confirmed cases of COVID-19 involving AHN personnel, including at the following Insured Locations in Pennsylvania and New York: Allegheny General Hospital, Allegheny Valley Hospital, Canonsburg Hospital, Forbes Hospital, Grove City Medical Center, Jefferson Hospital, Saint Vincent Hospital, West Penn Hospital, Westfield Memorial Hospital, Inc. as well as various other hospitals, ambulatory care facilities, and physician offices.

110. There were multiple occurrences under the Policy based on each AHN’s Insured Location’s different experiences with confirmed or suspected communicable disease, differing local conditions and differing responses each Location was required to take to COVID-19 and state and county-focused public authority orders.

F. AHN’s Losses Are Covered by the Policy.

111. The physical loss of business at each of its Insured Locations caused by COVID-19 is a Covered Cause of Loss under the Policy.

112. COVID-19, a communicable disease, directly impacted AHN’s business. The business loss caused by COVID-19 has had a catastrophic impact on AHN’s various Insured Locations and its business operations.

113. In addition to numerous experiences with Communicable Disease and resulting interruptions, AHN experienced losses and incurred expenses both to protect patients and to protect and preserve its insured property, and to pay for extra expenses due to a Covered Cause of Loss, triggering the Protection and Preservation of Property, Protection of Patients, and Extra Expenses provisions of the Policy.

114. The Policy must be read as a whole and the Interruption by Communicable Disease coverage and deletion of virus from the policy exclusions confirms that coverage is applicable.

115. The Policy recognizes Communicable Disease as a cause of physical loss or damage and a Covered Cause of Loss, and the Policy's deletion of "virus" from the contamination exclusion confirms this interpretation.

116. Additionally, AGLIC already acknowledged coverage for AHN's losses under the Interruption by Communicable Disease coverage by providing a payment of \$100,000 under the provision to AHN.

117. In response to AGLIC's payment, AHN reserved rights concerning additional amounts in dispute, including those damages sought in this lawsuit for additional "occurrences" at AHN's Insured Locations and additional types of coverage.

118. AHN experienced multiple occurrences relating to its COVID-19 losses at its various Insured Locations. Each of these individual Insured Locations experienced a separate occurrence as a result of the COVID-19 pandemic because each Insured Location was separately impacted based on the circumstances at each Insured Location that caused the loss, including based on type of healthcare facility, different experiences with confirmed or suspected communicable disease at each Insured Location, the impact of various state and local orders governing operations, closures, opening, and relaxations on certain restrictions.

119. AHN is entitled to receive the \$100,000 sub-limit available under the Interruption by Communicable Disease provision, the \$1,000,000 sub-limit available under the Protection and Preservation of Property provision, the \$250,000 sub-limit available under the Protection of Patients provision, and the \$50,000,000 sub-limit under the Extra Expenses provision, for each occurrence, up to the Policy Limit of \$1,000,000,000.

G. AGLIC's Duties Under the Policy and Pennsylvania Law

120. As a result of AHN's business loss due to COVID-19, AGLIC is obligated by the Policy to pay up to the Policy Limit for Interruption by Communicable Disease, Protection and Preservation of Property, Protection of Patients, and Extra Expense coverages for the occurrences at each of AHN's over 350 Insured Locations.

121. Pennsylvania state insurance law further requires that insurance companies including AGLIC act in good faith, abstain from deception and practice honesty and equity in all insurance matters. The business of insurance is affected by the public interest and engaging in the business of insurance requires insurance companies like AGLIC to promptly conduct fair, balanced, and thorough investigations of all bases of claims for benefits made by their policyholders, with a view toward honoring the claims. As part of these obligations, an insurance company is obligated to diligently search for and consider evidence that supports coverage of the claimed loss, and in doing so must give at least as much consideration to the interests of its policyholder as it gives to its own interests.

122. AGLIC has a duty to adopt and maintain a consistent and rational interpretation of the Policy sold to AHN.

123. AGLIC is bound to interpret and administer its insurance policies in accordance with the requirements of local Pennsylvania law.

124. AGLIC is bound to investigate AHN's claim in good faith and with an individualized investigation into the cause of loss and individual terms in the Policy such as those set forth in greater detail above.

125. If a policyholder's understanding of its insurance coverage has been induced by misrepresentations by the insurance company, then the insurance policy should be reformed to reflect the terms as represented by the insurance company.

126. AGLIC has failed to honor its obligations under the Policy and Pennsylvania law to AHN. As described in greater detail below, AGLIC summarily denied coverage and breached (a) the Policy sold to AHN and (b) the duties of good faith and fair dealing owed to AHN. These breaches have caused great and incalculable damages to AHN.

127. By engaging in evasive, dilatory, inconsistent and litigious tactics, AGLIC breached its obligation to act in good faith towards its policyholders, including AHN, and the public.

H. AGLIC's Improper Denial of AHN's Claim and Wrongful Conduct

128. AHN promptly notified AGLIC of its claim for losses under the Policy.

129. In a letter dated July 30, 2020, AGLIC informed AHN that it was continuing its investigation of AHN's claim under a reservation of rights.

130. In a letter dated March 29, 2021, AGLIC denied coverage for AHN's losses in connection with the threat of COVID-19 outbreak under all but one provision. AGLIC denied coverage under multiple provisions and agreed to pay a mere \$100,000 under the Interruption by Communicable Disease coverage, notwithstanding the actual presence of COVID-19 as a Covered Cause of Loss at AHN's Insured Locations during the period of insurance, evidence of interruptions and resulting losses experienced at AHN's Insured Locations.

131. In its March 29, 2021 denial letter, AGLIC incorrectly stated that "the presence of the COVID-19 virus is excluded under the Policy" and "the presence of the COVID-19 virus does not constitute 'direct physical loss of or damage' to property."

132. AGLIC failed to recognize that the Policy provides coverage for losses and damages caused by Communicable Disease or the revised Contamination exclusion deletes any restriction on coverage for a virus, and as a result AGLIC refused to accept the presence of COVID-19, a communicable disease, as a covered cause of loss under the Policy.

133. To date, AGLIC has also only paid \$100,000 to AHN under the Interruption by Communicable Disease coverage, despite there being a \$100,000 per occurrence limit under the provision and AHN experiencing multiple occurrences and losses at multiple locations, and AGLIC failed to make payments under any other policy provision to AHN.

134. AHN has substantially performed or otherwise satisfied all conditions precedent to bringing this action and obtaining coverage pursuant to the Policy and applicable law.

I. AGLIC's Pattern of Bad Faith Conduct

135. AGLIC and the insurance industry at large have denied or sought to minimize any coverage to policyholders like AHN for property damage and business income claims arising from COVID-19 and SARS-CoV-2 throughout the Commonwealth and the country because they have determined that doing so furthers their economic interests.

136. In responding to the ongoing crisis and claims like those of AHN and claims by other policyholders nationwide, AGLIC like other insurance companies has been engaged in a pattern and practice of refusing to conduct a particularized analysis of claims on their merits.

137. Instead, AGLIC's policy and practice has been to broadly deny or minimize coverage for all claims involving COVID-19 and SARS-CoV-2.

138. Further, AGLIC has denied AHN's request for an extension of the tolling period beyond June 19, 2021 without providing a reasonable basis for the refusal, thereby requiring AHN to bring this suit now.

139. AGLIC has been and is engaged in an ongoing, one-sided, bad faith effort to ignore any and all obligations under all-risks property and business and interruption policies like the Policy sold to AHN, without respect to any differentiation in policy terms or causes of loss.

140. AGLIC's one-sided behavior exposes policyholders like AHN to the risk of severe losses and financial ruin, and has compelled AHN to protect itself.

141. AGLIC is ignoring the interests of its policyholders and coverage owed to them in favor of its own interests. AGLIC is acting only out of its self-interest.

142. As set forth above, AGLIC has not offered a reasonable basis or explanation for its denial of coverage under all provisions of the Policy except for a single payment of \$100,000 under the Interruption by Communicable Disease coverage, nor for its refusal to extend the tolling period beyond June 19, 2021.

143. AGLIC's failure to adjust the claim of AHN and claims of other policyholders in good faith caused severe detriment to AHN and others across Pennsylvania and the nation.

COUNT I

DECLARATORY JUDGMENT

144. Plaintiff incorporates by reference the allegations contained in the above-stated paragraphs.

145. Plaintiff seeks a declaration, pursuant to 42 Pa. C.S. § 7532, that AGLIC is obligated, in accordance with the terms of the Policy, to provide insurance coverage for AHN's losses for a separate per occurrence limit in relation to each of its Insured Locations under the Interruption by Communicable Disease, Protection and Preservation of Property, Protection of Patients, and Extra Expense coverages.

146. Plaintiff seeks a declaration that AGLIC is responsible to pay for loss, damage, and interruption to Plaintiff's businesses up to the \$50,000,000 Limit of Liability for extra expenses under the Policy as to the occurrence at that Insured Location.

147. An actual and justifiable controversy exists between the parties with respect to this issue because of AGLIC's refusal to perform its obligations under the Policy.

148. A declaration of the parties' rights and obligations under the Policy will serve to resolve the dispute between them.

WHEREFORE, pursuant to 42 Pa. C.S. § 7532, AHN requests entry of a declaratory judgment declaring that AGLIC is obligated under the Policy to pay AHN for Communicable Disease, Protection and Preservation of Property, Protection of Patient, and Extra Expense coverages for multiple occurrences of direct physical loss of or damage caused at each Insured Location that has been impacted by COVID-19.

COUNT II

BREACH OF CONTRACT

149. Plaintiff incorporates by reference the allegations contained in the above-stated paragraphs.

150. As set forth above, in return for premiums paid, AGLIC sold AHN the Policy, in which AGLIC promised to pay for covered losses up to the applicable Limit of Liability.

151. AHN promptly advised AGLIC it sustained and is sustaining losses covered by the Policy.

152. After AHN provided financial information to support its claim, AGLIC denied coverage as to all but \$100,000 of AHN's loss by way of letter dated March 29, 2021 and AGLIC denies any obligation for any of AHN's losses. This denial of coverage constitutes a breach of the Policy.

153. As a direct and proximate result of AGLIC's breach, AHN has been deprived of the benefits of insurance coverage for which it paid substantial premiums, and has suffered substantial damage.

WHEREFORE, AHN requests that judgment be entered in its favor and against AGLIC for all losses that AHN has incurred or will incur as set forth above, including all actual and compensatory monetary damages in an amount to be proven at trial, together with attorneys' fees, interests, costs and other such and further relief, including equitable relief, as this Court deems just and proper.

COUNT III

BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

154. Plaintiff incorporates by reference the allegations contained in the above-stated paragraphs.

155. The Policy contains an implied covenant of good faith and fair dealing that imposes on AGLIC an obligation to not do anything to injure the rights of AHN to receive the benefits of the Policy and to not place its own interests above those of its policyholder.

156. AGLIC has an obligation to act in good faith towards AHN in every decision it makes regarding the claim and to respond and investigate claims in good faith. As set forth above, AGLIC has repeatedly placed its own interests ahead of those of AHN and other policyholders nationwide and across the Commonwealth, to the detriment of its policyholders (including AHN), and AGLIC continues to act in breach of its duty to adjust AHN's claim in good faith.

157. AGLIC's investigation of AHN's claim is unreasonable, willful and wanton, and in reckless disregard of AHN's rights under the Policy and at law.

158. AGLIC's refusal to honor its obligations under the Policy is frivolous and unfounded.

159. AHN has been, and continues to be, harmed as a result of AGLIC's breach.

160. AGLIC has acted in bad faith towards AHN with respect to its claim by, among other things: a) denying coverage under all provisions except for a \$100,000 payment under the Interruption by Communicable Disease coverage without a reasonable basis, when there has been multiple occurrences; b) refusing to extend the suit limitation period (to the extent even applicable) beyond June 19, 2021 despite AHN's reasonable request; c) acting in a one-sided manner and exposing AHN to severe losses for which AHN purchased appropriate insurance coverage by way of the Policy; and d) refusing to pay for claims without legal compulsion and forcing AHN to protect itself by way of this lawsuit against AGLIC.

WHEREFORE, AHN demands judgment from AGLIC as follows:

- (a) awarding AHN compensatory, direct and consequential damages in an amount to be determined at trial;
- (b) awarding AHN pre-judgment interest and post-judgment interest;
- (c) awarding AHN reasonable attorneys' fees and costs incurred in this action; and
- (d) granting such other and further relief as the Court deems just, proper, and equitable.

COUNT IV

BAD FAITH INSURANCE PRACTICES PURSUANT TO 42 PA. CONST. STAT. ANN. § 8371

161. Plaintiff incorporates by reference the allegations contained in the above-stated paragraphs.

162. 42 Pa. Const. Stat. Ann. § 8371 ("Section 8371") provides specific statutory relief to, *inter alia*, a policyholder in an action between the policyholder and an insurance company arising under an insurance policy if the insurance company acted in bad faith toward the policyholder.

163. Pursuant to Section 8371, bad faith can be evidenced by, *inter alia*, an insurance company's frivolous or unfounded refusal to pay or its lack of investigation or unreasonable investigation into the facts of a claim. A bad faith claim also can be evidenced by circumstances showing that the insurance company lacked a reasonable basis for denying, or unreasonably delaying payment of, the policyholder's claim for insurance benefits, or that the insurance company knew or recklessly disregarded its lack of a reasonable basis for denying, or unreasonably delaying payment of, the policyholder's claim for insurance benefits.

164. AGLIC has acted in bad faith towards AHN with respect to its claim within the meaning of Section 8371 by, among other things: a) denying coverage under all provisions except for a \$100,000 payment under the Interruption by Communicable Disease coverage without a reasonable basis, when there has been multiple occurrences; b) refusing to extend the suit limitation period (to the extent even applicable) beyond June 19, 2021 despite AHN's reasonable request; c) acting in a one-sided manner and exposing AHN to severe losses for which AHN purchased appropriate insurance coverage by way of the Policy; and d) refusing to pay for claims without legal compulsion and forcing AHN to protect itself by way of this lawsuit against AGLIC.

165. As set forth above, AGLIC has not offered a reasonable basis or explanation for its denial of coverage under all provisions except for a \$100,000 payment under the Interruption by Communicable Disease coverage.

166. AGLIC knew or recklessly disregarded its lack of a reasonable basis for refusing its obligation to pay the claim submitted under the Policy.

167. AGLIC's actions and inactions constitute bad faith under Section 8371.

168. AGLIC's failure to investigate or adjust the claim of AHN and claims of other policyholders in good faith has caused severe detriment to AHN and other policyholders across

Pennsylvania and the nation and unnecessarily exposes businesses to severe financial hardship and potentially bankruptcy, threatening the employment of thousands, and damaging the economic well-being of society as a whole.

169. As a result of AGLIC's refusal to honor its obligation to act in good faith with respect to AHN's claim, AHN has incurred costs and expenses including attorneys' fees in connection with its pursuit for insurance coverage in this lawsuit.

WHEREFORE, AHN demands judgment from AGLIC as follows:

(a) awarding AHN compensatory, direct and consequential damages in an amount to be determined at trial;

(b) awarding AHN damages sustained as a result of AGLIC's bad faith conduct, including, without limitation, compensatory damages, consequential damages, and exemplary damages in an amount allowed by law;

(c) awarding AHN punitive damages in an amount to be determined at trial;

(d) awarding AHN pre-judgment interest and post-judgment interest;

(e) awarding AHN interest in accordance with Section 8371;

(f) awarding AHN reasonable attorneys' fees and costs incurred in this action; and

(g) granting such other and further relief as the Court deems just, proper, and equitable.

A JURY TRIAL IS DEMANDED ON ALL COUNTS.

Respectfully submitted,

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