

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
GENERAL CIVIL LAW DIVISION**

BOBBY C'S, INC

Plaintiff,

vs.

COLONY INSURANCE COMPANY,

Defendant.

CASE NO.:

DIVISION:

COMPLAINT

PLAINTIFF, BOBBY C'S, INC ("BOBBY C'S"), by and through its undersigned counsel, hereby files this, its Complaint against Defendant, COLONY INSURANCE COMPANY ("COLONY") and alleges as follows:

1. This is an action for declaratory judgment.
2. The amount in controversy exceeds Thirty Thousand Dollars (\$30,000.00), exclusive of fees, taxable costs, and interest.
3. At all times material hereto, Plaintiff, BOBBY C'S, was a Florida corporation with its principal place of business in Hillsborough County, Florida.
4. At all times material hereto, COLONY was a foreign insurance company authorized to and conducting business in Hillsborough County, Florida.
5. COLONY issued a Commercial Property Policy bearing policy number 101 PKG 0159121-00 naming as its insured BOBBY C'S, for the primary operations as a restaurant that remained in force and effect at all material times ("the Policy"). A copy of the Policy is attached hereto as Exhibit "A".

6. While the Policy was in full force and effect, Plaintiff timely presented a claim for all payments due under the Policy resulting from lost income, remediation costs, civil authority closings, and all other insured damages arising from the business impact of the Novel Coronavirus (“Virus”) and associated disease, COVID-19.

7. The actual or reasonably possible physical presence of the Virus at or on the insured premises and personal property renders the insured’s use as a restaurant/bar unreasonably dangerous under the prevailing scientific community’s knowledge rendering a complete or partial loss of the use of the insured property and causes “direct physical loss or damage to” the insured premises and personal property, as those terms are used in the Policy.

8. COLONY however, has denied Plaintiff’s claim for benefits, asserting that there has not been a covered loss.

9. Plaintiff has at all times complied with and performed all of the covenants, conditions and obligations that Plaintiff was required to perform under the insurance contract; additionally, and alternatively, any covenants, conditions and obligations not performed by Plaintiff have been waived.

10. Plaintiff has employed the undersigned law firm to represent it in this action and has agreed to pay it a reasonable fee for its services.

Count I - Declaratory Judgment

11. Plaintiff re-alleges and reasserts the allegations set forth in Paragraphs 1 through 10 as if fully set forth herein.

12. The parties’ disagreement over whether coverage exists for the loss arises out of differing constructions of the Policy.

13. Plaintiff asserts the loss is covered under the Policy, while COLONY asserts that the loss is not covered under the Policy and continues to deny coverage.

14. The refusal of COLONY to cover the loss has placed Plaintiff in doubt of its rights under the Policy, and there exists a present and actual controversy capable of judicial resolution.

WHEREFORE, for the foregoing reasons, PLAINTIFF, BOBBY C’S, INC, respectfully requests the Court to enter judgment in its favor and against DEFENDANT, COLONY INSURANCE COMPANY, declaring that:

- a. The actual or possible presence of the Virus at or on the insured premises or personalty meet the Policy’s “direct physical loss or damage to property” language;
- b. The Policy affords coverage for loss of income and other benefits set forth by the applicable terms and condition of the Policy;
- c. Plaintiff is entitled to an award of attorney’s fees as the prevailing party in this cause of action; and
- d. Such other and further relief as this court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues so triable.

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