

CAUSE NO. 2020CI11482

DON STRANGE OF TEXAS, INC.	§	IN THE DISTRICT COURT
	§	
v.	§	<u>224th</u> JUDICIAL DISTRICT
	§	
CINCINNATI INSURANCE COMPANY	§	
and JOHNATHAN ANDREW MALISH	§	BEXAR COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff, DON STRANGE OF TEXAS, INC., and files this Original Petition against Defendants CINCINNATI INSURANCE COMPANY (“Cincinnati”) and JOHNATHAN ANDREW MALISH (“Adjuster” or “Malish”) for causes of action would respectfully show the Court the following:

**I. DISCOVERY LEVEL**

Pursuant to rule 190 of the Texas Rules of Civil Procedure, Plaintiff intends to conduct discovery under Level 3.

**II. VENUE**

Venue is appropriate in Bexar County, Texas because all or part of the conduct giving rise to the causes of action were committed in Bexar County, Texas and the Plaintiff and property which is the subject of this suit are located in Bexar County, Texas.

**III. PARTIES**

Plaintiff resides in Bexar County, Texas.

Defendant Cincinnati is in the business of insurance in the State of Texas. The insurance business done by Cincinnati in Texas includes, but is not limited to, the following:

- The making and issuing of contracts of insurance with the Plaintiff;

- The taking or receiving of application for insurance, including the Plaintiff's application for insurance;
- The receiving or collection of premiums, commissions, membership fees, assessments, dues or other consideration for any insurance or any part thereof, including any such consideration or payments from the Plaintiff; and
- The issuance or delivery of contracts of insurance to residents of this state or a person authorized to do business in this state, including the Plaintiff.

Defendant, CINCINNATI INSURANCE COMPANY, a foreign insurance carrier, organized and existing under the laws of the State of Ohio and authorized to conduct business in Texas, whose home office/principal business office is 6200 South Gilmore Road, Fairfield, Ohio 45014-5141, may be served with process through its agent for service, c/o National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136 via Certified Mail Return Receipt Requested.

Defendant, JOHNATHAN ANDREW MALISH, is an Adjuster and he may be cited with process at 31872 Cast Iron Cv, Bulverde, Texas 78163-4045 via Certified Mail Return Receipt Requested. The Adjuster engages in the business of insurance in Texas.

#### **IV. NATURE OF THE CASE; RELIEF SOUGHT**

This is a first-party insurance case stemming from The Cincinnati Insurance Company's failure to provide insurance coverage for the losses sustained and expenses incurred by Plaintiff because of the ongoing Coronavirus (COVID-19) pandemic.

Plaintiff seeks damages for breach of contract, violations of the Texas Insurance Code, and common law bad faith. Plaintiff also seeks its attorney's fees, statutory penalties, costs of court and pre- and post-judgment interest. As required by Rule 47 of the Texas Rules of Civil Procedure, Plaintiff seeks monetary relief over \$1,000,000.

## V. FACTUAL BACKGROUND

For many years, Don Strange of Texas, Inc. has owned and operated a full-service catering and event-management business in the San Antonio metropolitan area. Plaintiff's operations have been, and continue to be, suspended and threatened by the novel coronavirus, SARS-CoV-2, which causes the infectious disease COVID-19.

Plaintiff owns a commercial property located at 1551 Bandera Road, San Antonio, Texas 78228 (the "Property"). Plaintiff utilizes the Property as an office and sales space, storage space, and food-preparation area. Plaintiff manages and caters events at various venues throughout South Texas and beyond. In return for the payment of a premium, Cincinnati issued a policy of insurance, numbered EPP0406170 (the "Policy"), to Plaintiff. The Policy which was effective from October 1, 2019 through October 1, 2020, covered the Plaintiff's Property against all risks of loss, except for those risks that are expressly and specifically excluded. The coverage includes The Cincinnati Insurance Company's Building and Personal Property Coverage Form, Cinciplus Commercial Property Power XC+ (Expanded Coverage Plus) Endorsement, and The Cincinnati Insurance Company's Business Income (and Extra Expense) Coverage Form.

In early 2020, Plaintiff was forced to suspend or reduce business due to COVID-19 and the ensuing orders issued by civil authorities governing The United States, The State of Texas, The City of San Antonio, and Bexar County mandating the suspension of non-essential businesses. Losses due to COVID-19 are a Covered Cause of Loss under the Cincinnati policies with the Building Personal Property Coverage Form, the Cinciplus Commercial Property Power XC+ (Expanded Coverage Plus) Endorsement, and the Business Income (and Extra Expense) Coverage Form.

### ***The Policy at Issue***

The Cincinnati Insurance Company's coverage forms provide "Business Income" coverage, which promises to pay for actual loss due to the necessary suspension of operations caused by accidental physical loss or accidental physical damage to the covered property.

The Cincinnati Insurance Company's coverage forms also provide "Civil Authority" coverage, which promises to "pay for the actual loss of 'Business Income' sustained "and necessary Extra Expense" sustained "caused by action of civil authority which prohibits access to" the Covered Property when a Covered Cause of Loss causes damage to property other than the Covered Property, the civil authority prohibits access to the area immediately surrounding the damaged property, and "the action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage . . . ."

The Cincinnati Insurance Company's coverage forms issued to Plaintiff provide "Business Income from Dependent Properties" coverage, which promises to pay for loss of business income sustained due to the necessary suspension of Plaintiff's operations during a period of restoration at a dependent property. A "dependent property" is defined by the policy as "property operated by others whom you depend on to: (a) Deliver materials or services to you, or to others for your account (Contributing Locations) . . . ; (b) Accept your products or services; . . . or (d) Attract customers to your business." The locations at which events managed and/or catered by Plaintiff are held constitute dependent properties as defined by the Policy. Most, if not all, of these locations were subject to orders of civil authority which prohibited gatherings of people.

In The Cincinnati Insurance Company's coverage forms, Cincinnati also agreed to pay necessary Extra Expense that Plaintiff sustained during the "period of restoration" that Plaintiff

would not have sustained if there had been no direct loss to property caused by or resulting from a covered cause of loss.

Unlike some policies that provide Business Income (also referred to as “business interruption”) coverage, The Cincinnati Insurance Company’s coverage forms do not include, and are not subject to, any exclusion for losses caused by viruses or communicable diseases.

Losses caused by COVID-19 and the related orders issued by local, state, and federal authorities triggered the Business Income, Business Income from Dependent Properties, Civil Authority, and Extra Expense provisions of the Policy.

### **COVID-19 and the Covered Cause of Loss**

Coronavirus (COVID-19) is a highly contagious virus that has rapidly spread and continues to spread across the United States. COVID-19 is spread by a number of methods, including “community spread,” meaning that some people have been infected and it is not known how or where they became exposed. Public health authorities, including the CDC, have reported significant ongoing community spread of the virus including instances of community spread in all 50 states.

The CDC has reported that a person can become infected with COVID-19 by touching a surface or object (like a fork, plate, table, or chair) that has the virus on it, and then touching their own mouth, nose or eyes. More specifically, COVID-19 infections are spread through droplets of different sizes which can be deposited on surfaces or objects. To reduce the spread of the disease, the CDC has recommended that businesses clean and disinfect all surfaces, prioritizing the most frequently touched surfaces.

Even prior to the World Health Organization’s declaring COVID-19 a pandemic on March 11, 2020, the American public grew wary of frequenting public places and attending large

gatherings. Additionally, the presence of COVID-19 has caused civil authorities throughout the country to issue orders requiring the suspension of business at a wide range of establishments, including civil authorities with jurisdiction over Plaintiff's Property (the "Closure Orders"). The COVID-19 pandemic is a public health crisis that has profoundly impacted American society, including the public's ability and willingness to host and attend events, including catered events and meals.

### **The Closure Orders**

On March 11, 2020, the World Health Organization declared the COVID-19 virus outbreak a pandemic (widespread epidemic).

Shortly thereafter, on March 13, 2020, a Declaration of State of Disaster was issued by Texas Governor Abbot to take additional steps to prepare for, respond to, and mitigate the spread of SARS-CoV-2. On the same date, City of San Antonio and Bexar County issued orders prohibiting mass gatherings of more than 500 people.

Also on March 16, 2020, both the City of San Antonio and Bexar County issued orders prohibiting mass gatherings of more than 50 people. Within the next two days, the City of San Antonio and Bexar County issued orders restricting gatherings to ten people or less.

Any question as to whether Plaintiff was required to temporarily suspend its business operations was answered when, on March 19, 2020, Texas Governor Abbott issued a Public Health Disaster Declaration and Executive Order that, among other things, prohibited Texans from gathering in groups of ten or more people, and thereby required that Plaintiff close its business office and required cancellation of all of Plaintiff's scheduled events.

That same day, the Texas Commission of the Department of the State Health Services issued a proclamation, pursuant to Texas Health and Safety Code § 81.002, which (1) declared a

public health disaster for the entire State of Texas; and then (2) ordered that everyone in Texas “shall act responsibly to prevent and control communicable disease.” The Order then listed several standards of responsible actions to “reduce and delay the spread of COVID-19,” including:

- “Limit as much as possible close contact with other people. Stay six feet away.”
- “Do not gather in social groups of more than ten (10) individuals.”
- “Limit trips into the public to essential outings. Traveling to work, the grocery store, the pharmacy or to seek medical care would be considered essential trips.”
- “Restaurants should not allow dine-in options, either inside or outside.”

On March 23 and 24, 2020, Bexar County issued a “Stay Home Stay/Work Safe” order.

On March 31, 2020, the Texas Governor Abbott signed an executive order for the public to stay home and closing all “non-essential” businesses beginning April 2<sup>nd</sup> through April 30<sup>th</sup> of 2020. The City of San Antonio and Bexar County extended their “Stay Home/Work Safe” order until June 4, 2020. The described purposes of the Orders are to protect the “health, safety and welfare” of Bexar County and Texas residents, and to slow the spread of COVID-19 by “minimizing social gatherings” and “minimize in-person contact.” The State of Texas, the City of San Antonio, Bexar County, and surrounding counties have issued subsequent orders minimizing social gatherings and in-person contact.

According to the Texas Department of Health and Human Services, COVID-19 has been and continues to be present in Bexar County and the surrounding areas. As of June 22, 2020, the City of San Antonio reported there have been between 151-310 confirmed cases in the zip code area where Plaintiff’s business office is located.<sup>1</sup>

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<sup>1</sup> <https://covid19.sanantonio.gov/About-COVID-19/Dashboards-Data/Surveillance>

Plaintiff was already enduring substantial income losses and had to begin laying off staff, when on March 13, 2020, the Texas governor and the City of San Antonio began issuing orders limiting gatherings of 500 or more people, which quickly expanded to limit gatherings to ten people or less. All of Plaintiff's catering contracts were either cancelled, postponed indefinitely, or postponed but later cancelled. The pandemic and health crises have resulted in Plaintiff suffering a physical loss of the Covered Property, and suspension of its business that is covered loss under the Business Interruption and Extra Expense, and Business Interruption to Dependent Property provisions of the Policy. Coverage for Plaintiff's losses is also available under Civil Authority coverage under the Policy.

#### **Cincinnati Wrongfully Denies Coverage for Plaintiff's Loss**

In early March, 2020, Plaintiff timely provided notice of claim under the Policy to Cincinnati.

On May 1, 2020, Cincinnati issued a coverage decision letter formally denying Plaintiff's claim and reserving its rights under the policy.

Plaintiff has performed all of their obligations under the Policy, including but not limited to the payment of premiums and timely reporting of claims. Therefore, the Policy has been in effect since October 1, 2019- without interruption.

The Policy pays for direct physical loss to the Covered Property as well as business income and extra expenses incurred due to the necessary suspension of operations. The Policy also pays for losses incurred as a result of business interruption caused by an order from a civil authority.

Cincinnati's conclusory position that the COVID-19 does not constitute direct physical damage, and thus no coverage exists for Plaintiff's forced suspension of business operations and business interruption is not supported by the Policy, or the facts.

Direct physical loss can exist without actual structural damage to property. In analogous circumstances to the COVID-19 agent, the presence of harmful substances at or on a property can constitute property damage or direct physical loss that triggers first party property damage. For instance, ammonia accidentally released into a facility, renders the building unsafe until it can be removed: covered property damage has occurred. If the presence of harmful substances renders the property uninhabitable or unstable, the coverage requirement of direct physical loss as a necessary condition has been met. It has consistently been held that the presence of a dangerous substance in a property constitutes “physical loss or damage.”

At the very least, Plaintiff suffered a physical loss of the covered property as a result of the COVID-19 coronavirus and the mandated orders and actions taken to limit the impact of the pandemic.

Plaintiff clearly suffered a loss of use of covered property because Plaintiff was unable to operate its business office and unable to manage off-site events in areas also affected by COVID-19 and by orders of civil authorities.

Moreover, unlike many commercial property policies available on the market, the Policy sold by Cincinnati did not include an exclusion for loss caused by a virus. The Policy has rules and conditions regarding bacteria, but it is undisputed that a virus is not a bacterium.

Cincinnati, and its adjuster Malish, also rely upon a convoluted interpretation of the Policy’s definition of “pollutant” to support their erroneous position that the presence of coronavirus is a pollutant excluded from coverage under the Policy.

The carrier assigned the claim to Malish, among others, to investigate, report on and adjust the loss. When Malish first contacted Plaintiff by telephone, he only spoke to Plaintiff for

approximately ten minutes, which is an inadequate amount of time to address and investigate such a novel and significant claim.

Plaintiff provided information to Malish and opportunities for Malish to inspect the Covered Property. Once Plaintiff supplied Malish with all requested information on April 29, 2020, Malish issued the denial letter less than 48 hours later, on May 1, 2020. Malish's rapid decision indicates that either he was predisposed to deny the claim regardless of the requested information, or he made the claim decision hastily, without thoroughly considering and confirming the information supplied by Plaintiff.

The Insurance Defendant and Malish also failed to investigate possible coverage for Plaintiff's loss pursuant to the Policy's Business Income from Dependent Properties provision when such coverage for Plaintiff's loss was reasonably clear and failed to even address such coverage in the May 1, 2020, denial letter to Plaintiff.

The Insurance Defendant and Adjuster have failed and refused to pay Plaintiff in accordance with its promises under the Policy.

Plaintiff has suffered a covered loss under the Policy which has not been paid, even though the amounts are well-established and have been provided to the Insurance Defendant and the Adjuster.

The Insurance Defendant and the Adjuster have failed to make an attempt to settle Plaintiff's claim in a fair manner, although the insurer's liability to the Plaintiff under the Policy is without dispute. This conduct is a violation of Tex. Ins. Code Sec. 541.060(a)(2)(A).

The Insurance Defendant and the Adjuster have failed to explain the reasons for its denial. The Insurance Defendant and the Adjuster have failed to offer Plaintiff adequate compensation without promptly providing a reasonable explanation of the basis in law or fact for the denial of

Plaintiff's claims The Insurance Defendant and Adjuster did not communicate that any future settlements or payments would be forthcoming to pay the entire losses covered under the Policy. This conduct violates Tex. Ins. Code Sec. 541.060(a)(3).

The Insurance Defendant refused to fully compensate Plaintiff under the terms of the Policy even though the Insurance Defendant failed to conduct a reasonable investigation. The Insurance Defendant and the Adjuster performed a result-oriented investigation of Plaintiff's claim which resulted in an unfair, biased and inequitable evaluation of Plaintiff's losses. This conduct is a violation of Tex. Ins. Code Sec. 541.060(a)(7).

The Insurance Defendant and the Adjuster forced Plaintiff to file this suit by offering substantially less than the amount of covered damages. This conduct violates Texas Insurance Code § 542.003(b)(5).

The Insurance Defendant failed to meet its obligation under the Texas Insurance Code regarding payment of the claim without delay. This conduct is a violation of Tex. Ins. Code Sec. 542.058.

## VI. CLAIMS AGAINST CINCINNATI INSURANCE COMPANY

**Declaratory Judgment.** Plaintiff re-alleges the foregoing paragraphs. Pursuant to the Texas Declaratory Judgment Act, Plaintiff is entitled to a declaration that the Policy provides coverage for Plaintiff's business interruption loss, less only a deductible, among other things. In the alternative, Plaintiff asserts that the Policy is ambiguous and must be interpreted in favor of coverage and against the Insurance Defendant.

**Breach of Contract.** Plaintiff re-alleges the foregoing paragraphs. The acts and omissions of the Insurance Defendant and its agents constitute a breach and/or anticipatory breach of the Insurance Defendant's contract with Plaintiff. Plaintiff has satisfied all conditions precedent to the

fulfillment of its contractual demands. Accordingly, additionally or in the alternative, Plaintiff brings an action for breach of contract against the Insurance Defendant pursuant to Texas statutory and common law, including Chapter 38 of the Texas Civil Practice and Remedies Code, and seek all of its damages for such breach, including actual damages, consequential damages, attorneys' fees, prejudgment interest, other litigation expenses and costs of court.

**Violations of the Texas Insurance Code.** Plaintiff re-alleges the foregoing paragraphs.

At all pertinent times, the Insurance Defendant was engaged in the business of insurance as defined by the Texas Insurance Code. The acts and omissions of the Insurance Defendant and its agents constitute one or more violations of the Texas Insurance Code. More specifically, the Insurance Defendant has, among other violations, violated the following provisions of the Code:

1. Insurance Code chapter 542, the Prompt Payment Act.
2. Insurance Code chapter 541, section 541.060 by, among other things:
  - failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which their liability has become reasonably clear;
  - failing to promptly provide a reasonable explanation of the basis in law or fact for the denial of Plaintiff's claims; and/or
  - refusing to pay Plaintiff's claim without conducting a reasonable investigation.

As a result of the foregoing conduct, which was and is the producing cause(s) of injury and damage to Plaintiff, Plaintiff has suffered damages including, without limitation, actual damages, economic damages, and consequential damages. Moreover, one or more of the foregoing acts or omissions were "knowingly" made, entitling Plaintiff to seek treble damages pursuant to the Insurance Code. The Insurance Defendant has also violated the Prompt Payment Act, and Plaintiff seeks statutory damages as a penalty, plus reasonable and necessary attorney's fees incurred as a result of these violations.

**“Common Law Bad Faith.”** Plaintiff re-alleges the foregoing paragraphs. The Insurance Defendant has refused to pay a claim after liability has become reasonably clear. The Insurance Defendant has refused to pay, delayed in paying or offered grossly inadequate and unconscionable sums to settle the claims submitted by Plaintiff. This constitutes a breach of its common law duty of good faith and fair dealing’ *i.e.*, it is acting in “bad faith.”

Moreover, the Insurance Defendant has “investigated” and “adjusted” Plaintiff’s claim in a malicious, intentional, and/or grossly negligent fashion, and Plaintiff is entitled to extra-contractual damages, including exemplary damages. Plaintiff has sustained a serious business interruption loss as a result of the Insurance Defendant’s refusal to honor the Policy. The Insurance Defendant is well aware that its actions involve an extreme risk that Plaintiff will suffer financial damage as a result of its refusal to honor its obligations, yet it is consciously indifferent to Plaintiff’s rights. Plaintiff is entitled to recover its actual damages, consequential damages, punitive damages, and pre- and post-judgment interest.

## **VII. CLAIMS AGAINST THE ADJUSTER**

**Violations of the Texas Insurance Code.** Plaintiff re-alleges the foregoing paragraphs. At all pertinent times, the Adjuster, Malish, was engaged in the business of insurance as defined by the Texas Insurance Code. The acts and omissions of Malish and/or his agents constitute one or more violations of the Texas Insurance Code. More specifically, Malish has, among other violations, violated Texas Insurance Code chapter 541, section 541.060 by, among other things:

- failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which their liability has become reasonably clear;
- failing to promptly provide a reasonable explanation of the basis in law or fact for the denial of Plaintiff’s claims; and/or
- refusing to pay Plaintiff’s claim without conducting a reasonable investigation.

The Insurance Defendant assigned the loss and the claim to Malish who was at all pertinent times the agent of the Insurance Defendant, through both actual and apparent authority. The acts, representations and omissions of the Adjuster are attributed to the Insurance Defendant.

Despite having been assigned the claim, and despite being given authority and instructions to adjust and evaluate the claim, Malish failed and refused to adjust the claim properly. Instead, Malish just went through the motions on a claim he was pre-determined to deny. He conducted a minimal investigation and looked for ways to deny Plaintiff's claim. For example, Malish relied upon his convoluted interpretation of the definition of "pollutants" in the Policy as a basis to exclude coverage. Malish also failed to investigate possible coverage for Plaintiff's loss pursuant to the Policy's Business Income from Dependent Properties provision when such coverage for Plaintiff's loss was reasonably clear and failed to address such coverage in his denial letter to Plaintiff. Malish failed to request from Plaintiff the relevant information regarding the financial impact of the business interruption, failed to fully investigate the occurrence made the basis of claim, failed to provide a reasonable explanation of the basis in law or fact for the denial of Plaintiff's claims, and failed to make reasonable recommendations to the Insurance Defendant.

Plaintiff provided information regarding the loss and the claim to Malish, including sufficient information for Malish to adjust and evaluate the loss. As a result, to this date, Plaintiff has not received full payment for the claim.

Malish's actions were negligent, reckless, willful and intentional, and were the proximate and producing cause of damages to the Insured.

As a result of the foregoing conduct, which was and is the producing cause(s) of injury and damage to Plaintiff, Plaintiff have suffered damages including, without limitation, actual damages, economic damages, and consequential damages. Moreover, one or more of the foregoing acts or

omissions were “knowingly” made, entitling Plaintiff to seek treble damages pursuant to the Insurance Code.

Upon information and belief, Cincinnati relied solely on Malish’s recommendation in making payment on Plaintiff’s claim. Thus, Malish was responsible for scoping, adjusting, and estimating the claim. Malish’s failure to properly investigate and adjust the claim directly led to the denial of Plaintiff’s claim. As a result of Malish’s conduct, Cincinnati denied the claim.

**Attorney’s fees.** Plaintiff re-alleges the foregoing paragraphs. Plaintiff has been required to engage the services of the undersigned attorneys and have agreed to pay his attorneys a reasonable fee for services expended and to be expended in the prosecution of his claims against the Cincinnati through the trial court and all levels of the appellate process. Plaintiff seeks the recovery of all of his attorney’s fees and expenses.

With respect to all causes of action asserted herein, Plaintiff seeks the recovery of prejudgment and post-judgment interest.

#### **VIII. CONDITIONS PRECEDENT**

All conditions precedent for Plaintiff to recover under the Policy have been or will be met.

#### **IX. JURY DEMAND**

Plaintiff request that a jury be convened to try the factual issues in this action.

#### **X. REQUEST FOR DISCLOSURE**

Pursuant to the Texas Rules of Civil Procedure 194, Plaintiff request that Defendants provide the information required in a Request for Disclosure.

#### **XI. REQUEST FOR PRODUCTION TO CINCINNATI INSURANCE COMPANY**

Produce Cincinnati’s complete claim file for Plaintiff’s home relating to or arising out of any damage which occurred.

Produce all emails, notes, and other forms of communication between Cincinnati, its agents, Adjusters, employees, or representatives and Johnathan Malish, and/or their agents, Adjusters, representatives or employees relating to, mentioning, concerning or evidencing the Plaintiff's loss which is the subject of this suit.

## **XII. REQUEST FOR PRODUCTION TO JOHNATHAN MALISH**

Produce Malish's complete claim or adjusting file for Plaintiff's loss relating to or arising out of any damage which occurred.

Produce all emails, notes, and other forms of communication between Cincinnati, its agents, Adjusters, employees, or representatives and Johnathan Malish, and/or their agents, Adjusters, representatives or employees relating to, mentioning, concerning or evidencing the Plaintiff's home which is the subject of this suit.

### **PRAYER**

WHEREFORE, Plaintiff seeks the following relief:

- A. The Court's declaration that the Policy provides coverage for the damage resulting from the loss, less only a deductible;
- B. Alternatively, a ruling that the Policy is ambiguous and must be interpreted in favor of coverage and in favor of Plaintiff;
- C. Damages against the Insurance Defendant for breach of contract, including actual damages, consequential damages, attorneys' fees, pre- and post-judgment interest, other litigation expenses and costs of court;
- D. Penalty in the statutory amount of the damages for violations of the Prompt Payment Act;

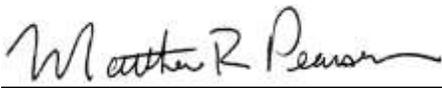
E. Damages against the Insurance Defendant and Adjuster, jointly and severally, for other violations of the Texas Insurance Code, including without limitation economic damages, actual damages, consequential damages, treble damages, and reasonable and necessary attorneys' fees;

F. Damages against the Insurance Defendant and the Adjuster, jointly and severally, for breach of the duty of good faith and fair dealing, including actual damages, consequential damages, punitive damages and pre- and post-judgment interest; and

H. Plaintiff also seeks all other financial relief and rulings to which they may be legally or equitably entitled.

Respectfully submitted,

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