

20-126

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----

JORDACHE ENTERPRISES, INC., :  
 SHORE PARKWAY ASSOCIATES, LLC, SHORE :  
 PARKWAY OWNER, LLC, 6000 WOODLAND :  
 PARTNERS, LP, NAKASH E-COMMERCE, LLC, :  
 DITTO APPAREL OF CALIFORNIA, INC., :  
 DIRECTIONS STUDIO, LLC, :  
 JRA TRADEMARK COMPANY, :  
 LTD, NAKASH OUTLET STORES, LLC, US RETAIL :  
 STORES, LLC, US OUTLET STORES, LLC, :  
 JORDACHE LTD., JJ BASICS, LLC, :  
 633 REALTY, LLC, :  
 NAKASH LINCOLN COURT, LLC, NAKASH 200 :  
 HELEN STREET, LLC, USA OUTERWEAR, LLC, :  
 U.S. OUTLET STORES ELIZABETH, LLC, :  
 U.S. OUTLET STORES ELIZABETH II, LLC, :  
 U.S. OUTLET STORES ORLANDO, LLC, :  
 U.S. OUTLET STORE EL PASO, LLC, EMMONS :  
 AVENUE MARINA, LLC, NBR, LLC, 142 YOUNGS, :  
 LLC, 1236 OCEAN DRIVE, LLC, U.S. OUTLET :  
 STORES DEER PARK, LLC, U.S. OUTLET STORES :  
 TINTON FALLS, LLC, U.S. OUTLET STORES :  
 CYPRESS, LLC, U.S. OUTLET STORES MILPITAS, :  
 LLC, U.S. OUTLET STORES KATY, LLC, U.S. OUTLET :  
 STORES PARAMUS, LLC, U.S. OUTLET STORES :  
 LAS VEGAS, LLC, U.S. OUTLET STORES SAN :  
 YSIDRO, LLC, U.S. OUTLET STORES SAN :  
 MARCOS, LLC, U.S. OUTLET STORES ESTERO, LLC, :  
 U.S. OUTLET STORES ELLENTON, LLC, U.S. :  
 OUTLET STORES SAWGRASS MILLS, LLC, :  
 U.S. OUTLET STORES WRENTHAM, LLC, :  
 940 OCEAN DRIVE, LLC, U.S. OUTLET STORES :  
 COMMERCE, LLC, US OUTLET STORES AUBURN :  
 HILLS, LLC, NAKASH FIVE POINTS, LLC, :  
 US OUTLET STORES MERCEDES, LLC, :  
 US OUTLET STORES MIAMI, LLC, US OUTLET :  
 STORES GILROY, LLC, S&M AIRPLANE :  
 ENTERPRISES, LLC, HOTEL VICTOR, LLC, :  
 1144 OD, LLC, US OUTLET STORES CENTRAL :  
 VALLEY, LLC, US OUTLET STORES ORANGE, LLC, :  
 US OUTLET STORES ORLANDO II, LLC, :

Docket No.:

**SUMMONS**

Plaintiffs designate  
New York County as the  
place of trial.

The basis of venue is  
Plaintiff's principal place  
of business:  
1400 Broadway  
New York, New York

US OUTLET STORES CABAZON, LLC, :  
 750 COLLINS, LLC, US OUTLET STORES ST. :  
 AUGUSTINE, LLC, US OUTLET STORES GRAND :  
 PRAIRIE, LLC, NAKASH STRAND, LLC, US OUTLET :  
 STORES, TEXAS CITY, LLC, US OUTLET STORES :  
 LIVERMORE, LLC, BOND WASHINGTON, LLC, :  
 US RETAIL 1540 BROADWAY, LLC, 1444 DREXEL, :  
 LLC d/b/a CASA VICTORIA ORCHID HOTEL, :  
 US OUTLET STORES ROSEMONT, LLC, 215 PT :  
 CORNERSTONE, LLC, US OUTLET STORES :  
 GURNEE, LLC, US OUTLET STORES SAN :  
 ANTONIO, LLC, US OUTLET STORES SUNRISE :  
 II, LLC, US RETAIL STORES LAKE GROVE, LLC, :  
 US RETAIL STORES, MCALLEN, LLC, US RETAIL :  
 STORES PEMBROKE PINES, LLC, US OUTLET :  
 STORES LAKEWOOD, LLC, US OUTLET STORES :  
 HANOVER, LLC, US OUTLET STORES WEST :  
 PALM BEACH, LLC, US OUTLET STORES TEMPE, :  
 LLC, US RETAIL STORES NORTHRIDGE FASHION :  
 CENTER, LLC, US OUTLET STORES NEW :  
 ORLEANS, LLC, US RETAIL STORES EDISON :  
 MALL, LLC, US RETAIL STORES FLORIDA MALL, :  
 LLC, N&G SHOWCASE, LLC, US RETAIL STORES :  
 FASHION SHOW, LLC, US RETAIL STORES :  
 GLENDALE, LLC, :  
 US RETAIL STORES BRONX BAY PLAZA, LLC, :  
 129 LAFAYETTE ASSOCIATES, LLC, US RETAIL :  
 STORES ELMHURST, LLC, NAKASH ELEVENTH :  
 STREET, LLC, US RETAIL STORES :  
 MIAMI-BAYSIDE, LLC, US RETAIL STORES :  
 HIALEAH, LLC, US OUTLET STORES ORLANDO :  
 MARKETPLACE, LLC, US OUTLET STORES :  
 FLORIDA KEYS, LLC, SHOWCASE GROUND :  
 LESSEE, LLC, SHOWCASE 1415, LLC, SHOWCASE :  
 COSMO, LLC, EC 2537 REALTY LLC, SHOWCASE :  
 INVESTORS 3, LLC, LAS VEGAS 3, LLC, NAKASH :  
 SHREVEPORT, LLC, US OUTLET STORES LAKE :  
 BUENA VISTA, LLC, US RETAIL STORES CIELO :  
 VISTA, LLC, US RETAIL STORES MIRACLE :  
 MILE, LLC, US RETAIL STORES GARDEN CITY, LLC, :  
 999 E STREET OWNER, LLC, RN 999 E STREET, LLC, :  
 US RETAIL STORES MESQUITE, LLC, NAKASH :  
 BROTHERS REALTY, SANTA ROSA, LLC, JB SANTA :  
 ROSA, LLC, US RETAIL STORES BOSTON, LLC, :  
 US OUTLET STORES LUTZ, LLC, US OUTLET :

STORES LAS VEGAS NORTH, LLC, US RETAIL :  
STORES SHOWCASE MALL, LLC, US OUTLET :  
STORES STATEN ISLAND, LLC, NH NASHVILLE :  
BUILDING, LLC, JEMAL’S NASHVILLE :  
TENANT, LLC, TCG NASHVILLE TENANT :  
HOLDINGS, LLC, HIN B TENANT, LLC, :  
: :  
Plaintiffs, :  
: :  
-against- :  
: :  
AFFILIATED FM INSURANCE COMPANY :  
: :  
Defendant. :

To the above-named Defendant(s):

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff’s Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
May 13, 2021

Defendant’s address:

270 Central Avenue  
Johnston, RI 02919

**WEG AND MYERS, P.C.**  
Attorneys for Plaintiff  
Federal Plaza  
52 Duane Street, 2<sup>nd</sup> Floor  
New York, New York 10007  
(212) 227-4210

20-126

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----

JORDACHE ENTERPRISES, INC. :

SHORE PARKWAY ASSOCIATES, LLC, SHORE :

PARKWAY OWNER, LLC, 6000 WOODLAND :

PARTNERS, LP, NAKASH E-COMMERCE, LLC, :

DITTO APPAREL OF CALIFORNIA, INC., :

DIRECTIONS STUDIO, LLC, :

JRA TRADEMARK COMPANY, :

LTD, NAKASH OUTLET STORES, LLC, US RETAIL :

STORES, LLC, US OUTLET STORES, LLC, :

JORDACHE LTD., JJ BASICS, LLC, :

633 REALTY, LLC, :

NAKASH LINCOLN COURT, LLC, NAKASH 200 :

HELEN STREET, LLC, USA OUTERWEAR, LLC, :

U.S. OUTLET STORES ELIZABETH, LLC, :

U.S. OUTLET STORES ELIZABETH II, LLC, :

U.S. OUTLET STORES ORLANDO, LLC, :

U.S. OUTLET STORE EL PASO, LLC, EMMONS :

AVENUE MARINA, LLC, NBR, LLC, 142 YOUNGS, :

LLC, 1236 OCEAN DRIVE, LLC, U.S. OUTLET :

STORES DEER PARK, LLC, US OUTLET STORES :

TINTON FALLS, LLC, U.S. OUTLET STORES :

CYPRESS, LLC, U.S. OUTLET STORES MILPITAS, :

LLC, U.S. OUTLET STORES KATY, LLC, U.S. OUTLET:

STORES PARAMUS, LLC, U.S. OUTLET STORES :

LAS VEGAS, LLC, U.S. OUTLET STORES SAN :

YSIDRO, LLC, U.S. OUTLET STORES SAN :

MARCOS, LLC, U.S. OUTLET STORES ESTERO, LLC, :

U.S. OUTLET STORES ELLENTON, LLC, U.S. :

OUTLET STORES SAWGRASS MILLS, LLC, :

U.S. OUTLET STORES WRENTHAM, LLC, :

940 OCEAN DRIVE, LLC, U.S. OUTLET STORES :

COMMERCE, LLC, US OUTLET STORES AUBURN :

HILLS, LLC, NAKASH FIVE POINTS, LLC, :

U.S. OUTLET STORES MERCEDES, LLC, :

U.S. OUTLET STORES MIAMI, LLC, U.S. OUTLET :

STORES GILROY, LLC, S&M AIRPLANE :

ENTERPRISES, LLC, HOTEL VICTOR, LLC, :

1144 OD, LLC, US OUTLET STORES CENTRAL :

VALLEY, LLC, US OUTLET STORES ORANGE, LLC :

US OUTLET STORES ORLANDO II, LLC, :

Docket No.:

**COMPLAINT**

**JURY DEMANDED**

US OUTLET STORES CABAZON, LLC, :  
 750 COLLINS, LLC, US OUTLET STORES ST. :  
 AUGUSTINE, LLC, U.S. OUTLET STORES GRAND :  
 PRAIRIE, LLC, NAKASH STRAND, LLC, US OUTLET :  
 STORES, TEXAS CITY, LLC, US OUTLET STORES :  
 LIVERMORE, LLC, BOND WASHINGTON, LLC, :  
 US RETAIL 1540 BROADWAY, LLC, 1444 DREXEL, :  
 LLC d/b/a CASA VICTORIA ORCHID HOTEL, :  
 US OUTLET STORES ROSEMONT, LLC, 215 PT :  
 CORNERSTONE, LLC, US OUTLET STORES :  
 GURNEE, LLC, US OUTLET STORES SAN :  
 ANTONIO, LLC, US OUTLET STORES SUNRISE :  
 II, LLC, US RETAIL STORES LAKE GROVE, LLC :  
 US RETAIL STORES, MCALLEN, LLC, US RETAIL :  
 STORES PEMBROKE PINES, LLC, US OUTLET :  
 STORES LAKEWOOD, LLC, US OUTLET STORES :  
 HANOVER, LLC, US OUTLET STORES WEST :  
 PALM BEACH, LLC, US OUTLET STORES TEMPE, :  
 LLC, US RETAIL STORES NORTHRIDGE FASHION :  
 CENTER, LLC, US OUTLET STORES NEW :  
 ORLEANS, LLC, US RETAIL STORES EDISON :  
 MALL, LLC US RETAIL STORES FLORIDA MALL, :  
 LLC, N&G SHOWCASE, LLC, US RETAIL STORES :  
 FASHION SHOW, LLC, US RETAIL STORES :  
 GLENDALE, LLC, :  
 RETAIL STORES BRONX BAY PLAZA, LLC, :  
 129 LAFAYETTE ASSOCIATES, LLC, US RETAIL :  
 STORES ELMHURST, LLC, NAKASH ELEVENTH :  
 STREET, LLC, US RETAIL STORES :  
 MIAMI-BAYSIDE, LLC, US RETAIL STORES :  
 HIALEAH, LLC, US OUTLET STORES ORLANDO :  
 MARKETPLACE, LLC, US OUTLET STORES :  
 FLORIDA KEYS, LLC, SHOWCASE GROUND :  
 LESSEE, LLC, SHOWCASE 1415, LLC, SHOWCASE :  
 COSMO, LLC, EC 2537 REALTY LLC, SHOWCASE :  
 INVESTORS 3, LLC, LAS VEGAS 3, LLC, NAKASH :  
 SHREVEPORT, LLC, US OUTLET STORES LAKE :  
 BUENA VISTA, LLC, US RETAIL STORES CIELO :  
 VISTA, LLC, US RETAIL STORES MIRACLE :  
 MILE, LLC, US RETAIL STORES GARDEN CITY, LLC, :  
 999 E STREET OWNER, LLC, RN 999 E STREET, LLC, :  
 US RETAIL STORES MESQUITE, LLC, NAKASH :  
 BROTHERS REALTY, SANTA ROSA, LLC, JB SANTA :  
 ROSA, LLC, US RETAIL STORES BOSTON, LLC, :  
 US OUTLET STORES LUTZ, LLC, US OUTLET :

STORES LAS VEGAS NORTH, LLC, US RETAIL :  
STORES SHOWCASE MALL, LLC, US OUTLET :  
STORES STATEN ISLAND, LLC, NH NASHVILLE :  
BUILDING, LLC, JEMAL’S NASHVILLE :  
TENANT, LLC, TCG NASHVILLE TENANT :  
HOLDINGS, LLC, HIN B TENANT, LLC, :  
: :  
Plaintiffs, :  
: :  
-against- :  
: :  
AFFILIATED FM INSURANCE COMPANY :  
: :  
Defendant. :  
-----

Plaintiffs JORDACHE ENTERPRISES, INC., SHORE PARKWAY ASSOCIATES, LLC, SHORE PARKWAY OWNER, LLC, 6000 WOODLAND PARTNERS, LP, NAKASH E-COMMERCE, LLC, DITTO APPAREL OF CALIFORNIA, INC., DIRECTIONS STUDIO, LLC, JRA TRADEMARK COMPANY, LTD, NAKASH OUTLET STORES, LLC, US RETAIL STORES, LLC, US OUTLET STORES, LLC, JORDACHE LTD., JJ BASICS, LLC, 633 REALTY, LLC, NAKASH LINCOLN COURT, LLC, NAKASH 200 HELEN STREET, LLC, USA OUTERWEAR, LLC, U.S. OUTLET STORES ELIZABETH, LLC, U.S. OUTLET STORES ELIZABETH II, LLC, U.S. OUTLET STORES ORLANDO, LLC, U.S. OUTLET STORE EL PASO, LLC, EMMONS AVENUE MARINA, LLC, NBR, LLC, 142 YOUNGS, LLC, 1236 OCEAN DRIVE, LLC, U.S. OUTLET STORES DEER PARK, LLC, US OUTLET STORES TINTON FALLS, LLC, U.S. OUTLET STORES CYPRESS, LLC, U.S. OUTLET STORES MILPITAS, LLC, U.S. OUTLET STORES KATY, LLC, U.S. OUTLET STORES PARAMUS, LLC, U.S. OUTLET STORES LAS VEGAS, LLC, U.S. OUTLET STORES SAN YSIDRO, LLC, U.S. OUTLET STORES SAN MARCOS, LLC, U.S. OUTLET STORES

ESTERO, LLC, U.S. OUTLET STORES ELLENTON, LLC, U.S. OUTLET STORES SAWGRASS MILLS, LLC, U.S. OUTLET STORES WRENTHAM, LLC, 940 OCEAN DRIVE, LLC, U.S. OUTLET STORES COMMERCE, LLC, US OUTLET STORES AUBURN HILLS, LLC, NAKASH FIVE POINTS, LLC, U.S. OUTLET STORES MERCEDES, LLC, U.S. OUTLET STORES MIAMI, LLC, U.S. OUTLET STORES GILROY, LLC, S&M AIRPLANE ENTERPRISES, LLC, HOTEL VICTOR, LLC, 1144 OD, LLC, US OUTLET STORES CENTRAL VALLEY, LLC, US OUTLET STORES ORANGE, LLC US OUTLET STORES ORLANDO II, LLC, US OUTLET STORES CABAZON, LLC, 750 COLLINS, LLC, US OUTLET STORES ST. AUGUSTINE, LLC, U.S. OUTLET STORES GRAND PRAIRIE, LLC, NAKASH STRAND, LLC, US OUTLET STORES, TEXAS CITY, LLC, US OUTLET STORES LIVERMORE, LLC, BOND WASHINGTON, LLC, US RETAIL 1540 BROADWAY, LLC, 1444 DREXEL, LLC d/b/a CASA VICTORIA ORCHID HOTEL, US OUTLET STORES ROSEMONT, LLC, 215 PT CORNERSTONE, LLC, US OUTLET STORES GURNEE, LLC, US OUTLET STORES SAN ANTONIO, LLC, US OUTLET STORES SUNRISE II, LLC, US RETAIL STORES LAKE GROVE, LLC, US RETAIL STORES, MCALLEN, LLC, US RETAIL STORES PEMBROKE PINES, LLC, US OUTLET STORES LAKEWOOD, LLC, US OUTLET STORES HANOVER, LLC, US OUTLET STORES WEST PALM BEACH, LLC, US OUTLET STORES TEMPE, LLC, US RETAIL STORES NORTHRIDGE FASHION CENTER, LLC, US OUTLET STORES NEW ORLEANS, LLC, US RETAIL STORES EDISON MALL, LLC US RETAIL STORES FLORIDA MALL, LLC, N&G SHOWCASE, LLC, US RETAIL STORES FASHION SHOW, LLC, US RETAIL STORES GLENDALE, LLC, US RETAIL STORES BRONX BAY PLAZA, LLC, 129 LAFAYETTE ASSOCIATES, LLC, US RETAIL STORES ELMHURST, LLC, NAKASH ELEVENTH STREET, LLC, US RETAIL STORES MIAMI-



BAYSIDE, LLC, US RETAIL STORES HIALEAH, LLC, US OUTLET STORES ORLANDO MARKETPLACE, LLC, US OUTLET STORES FLORIDA KEYS, LLC, SHOWCASE GROUND LESSEE, LLC, SHOWCASE 1415, LLC, SHOWCASE COSMO, LLC, EC 2537 REALTY LLC, SHOWCASE INVESTORS 3, LLC, LAS VEGAS 3, LLC, NAKASH SHREVEPORT, LLC, US OUTLET STORES LAKE BUENA VISTA, LLC, US RETAIL STORES CIELO VISTA, LLC, US RETAIL STORES MIRACLE MILE, LLC, US RETAIL STORES GARDEN CITY, LLC, 999 E STREET OWNER, LLC, RN 999 E STREET, LLC, US RETAIL STORES MESQUITE, LLC, NAKASH BROTHERS REALTY, SANTA ROSA, LLC, JB SANTA ROSA, LLC, US RETAIL STORES BOSTON, LLC, US OUTLET STORES LUTZ, LLC, US OUTLET STORES LAS VEGAS NORTH, LLC, US RETAIL STORES SHOWCASE MALL, LLC, US OUTLET STORES STATEN ISLAND, LLC, NH NASHVILLE BUILDING, LLC, JEMAL'S NASHVILLE TENANT, LLC, TCG NASHVILLE TENANT HOLDINGS, LLC, and HIN B TENANT, LLC (hereinafter collectively "Plaintiffs") by their attorneys, Weg & Myers, P.C., as and for their complaint against Defendant, AFFILIATED FM INSURANCE COMPANY (hereinafter "Defendant") respectfully alleges as follows:

### **INTRODUCTION**

1. Founded in New York City in 1969, Plaintiff Jordache Enterprises, Inc. ("Jordache"), is a designer, manufacturer, and purveyor of a wide variety of denim, apparel and accessories, most notably including premium jeans.

2. Jordache, by and through its affiliated and subsidiary entities, has also made significant investments in real estate properties, hospitality, aviation, high-tech cryptography, maritime ventures and agriculture.



3. Brands owned by Jordache include, but are not limited to, Jordache, Earl Jeans, KIKIT Jeans, Maurice Sasson, Fubu ladies, Airport, Blue Star, and Gasoline. Jordache is also an official licensee of the U.S. Polo Assn. Brand.

4. Plaintiffs procured a policy of insurance with Defendant Affiliated FM Insurance Company (“Affiliated FM”) which was in full force and effect when the Covid-19 pandemic struck the United States.

5. The effect of this pandemic was to cause physical loss and damage to high volume commercial retail business throughout the United States.

6. In response to the damage being inflicted and to protect the public from further exposure to infected areas, many states and municipalities issued “stay at home” orders which prohibited Plaintiffs from continuing their business operations.

7. Due to the fact that Plaintiffs had purchased and all-encompassing all-risk policy of insurance from Affiliated FM which did not contain any specific relevant exclusions, Plaintiffs expected that Affiliated FM, after collecting annual premiums from Plaintiffs would be responsive to its insureds during their time of need.

8. Unfortunately, these expectations were never met.

9. Affiliated FM’s conduct compelled Plaintiffs to commence this litigation in order to force Affiliated FM to live up to its contractual obligations and indemnify Plaintiffs for their losses.

### **THE PARTIES**

10. At all relevant times JORDACHE ENTERPRISES INC. was and is a domestic corporation duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

11. At all relevant times SHORE PARKWAY ASSOCIATES, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

12. At all relevant times SHORE PARKWAY OWNER, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

13. At all relevant times 6000 WOODLAND PARTNERS, LP was and is a foreign partnership duly organized and existing under and by virtue of the laws of Pennsylvania, having its principal place of business at 1400 Broadway, New York, New York.

14. At all relevant times NAKASHE E-COMMERCE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

15. At all relevant times DITTO APPAREL OF CALIFORNIA, INC. was and is a foreign corporation duly organized and existing under and by virtue of the laws of Louisiana, having its principal place of business at 1400 Broadway, New York, New York.

16. At all relevant times DIRECTIONS STUDIO, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

17. At all relevant times JRA TRADEMARK COMPANY, LTD was and is a domestic corporation duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

18. At all relevant times NAKASH OUTLET STORES, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

19. At all relevant times US RETAIL STORES, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

20. At all relevant times US OUTLET STORES, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

21. At all relevant times JORDACHE LTD. was and is a foreign corporation duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

22. At all relevant times JJ BASICS, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

23. At all relevant times 633 REALTY, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

24. At all relevant times NAKASH LINCOLN COURT, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

25. At all relevant times NAKASH 200 HELEN STREET, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New Jersey, having its principal place of business at 1400 Broadway, New York, New York.

26. At all relevant times USA OUTERWEAR, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

27. At all relevant times U.S. OUTLET STORES ELIZABETH, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

28. At all relevant times U.S. OUTLET STORES ELIZABETH II, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New Jersey, having its principal place of business at 1400 Broadway, New York, New York.

29. At all relevant times U.S. OUTLET STORES ORLANDO, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

30. At all relevant times U.S. OUTLET STORES EL PASO, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

31. At all relevant times EMMONS AVENUE MARINA, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

32. At all relevant times NBR, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

33. At all relevant times 142 YOUNGS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New Jersey, having its principal place of business at 1400 Broadway, New York, New York.

34. At all relevant times 1236 OCEAN DRIVE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

35. At all relevant times U.S. OUTLET STORES DEER PARK, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

36. At all relevant times US OUTLET STORES TINTON FALLS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New Jersey, having its principal place of business at 1400 Broadway, New York, New York.

37. At all relevant times U.S. OUTLET STORES CYPRESS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

38. At all relevant times U.S. OUTLET STORES MILPITAS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

39. At all relevant times U.S. OUTLET STORES KATY, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

40. At all relevant times U.S. OUTLET STORES PARAMUS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New Jersey, having its principal place of business at 1400 Broadway, New York, New York.

41. At all relevant times U.S. OUTLET STORES LAS VEGAS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Nevada, having its principal place of business at 1400 Broadway, New York, New York.

42. At all relevant times U.S. OUTLET STORES SAN YSIDRO, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

43. At all relevant times U.S. OUTLET STORES SAN MARCOS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

44. At all relevant times U.S. OUTLET STORES ESTERO, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

45. At all relevant times U.S. OUTLET STORES ELLENTON, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

46. At all relevant times U.S. OUTLET STORES SAWGRASS MILLS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

47. At all relevant times U.S. OUTLET STORES WRENTHAM, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Massachusetts, having its principal place of business at 1400 Broadway, New York, New York.

48. At all relevant times 940 OCEAN DRIVE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

49. At all relevant times U.S. OUTLET STORES COMMERCE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

50. At all relevant times US OUTLET STORES AUBURN HILLS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Michigan, having its principal place of business at 1400 Broadway, New York, New York.

51. At all relevant times NAKASH FIVE POINTS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Georgia, having its principal place of business at 1400 Broadway, New York, New York.

52. At all relevant times U.S. OUTLET STORES MERCEDES, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.



53. At all relevant times U.S. OUTLET STORES MIAMI, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

54. At all relevant times U.S. OUTLET STORES GILROY, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

55. At all relevant times S&M AIRPLANE ENTERPRISES, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Connecticut having its principal place of business at 1400 Broadway, New York, New York.

56. At all relevant times HOTEL VICTOR, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

57. At all relevant times 1144 OD, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

58. At all relevant times US OUTLET STORES CENTRAL VALLEY, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

59. At all relevant times US OUTLET STORES ORANGE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

60. At all relevant times US OUTLET STORES ORLANDO II, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

61. At all relevant times US OUTLET STORES CABAZON, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

62. At all relevant times 750 COLLINS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York

63. At all relevant times US OUTLET STORES ST. AUGUSTINE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

64. At all relevant times U.S. OUTLET STORES GRAND PRAIRIE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

65. At all relevant times NAKASH STRAND, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

66. At all relevant times US OUTLET STORES, TEXAS CITY, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

67. At all relevant times US OUTLET STORES LIVERMORE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

68. At all relevant times BOND WASHINGTON, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

69. At all relevant times US RETAIL 1540 BROADWAY, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

70. At all relevant times 1444 DREXEL, LLC d/b/a CASA VICTORIA ORCHID HOTEL was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

71. At all relevant times US OUTLET STORES ROSEMONT, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

72. At all relevant times 215 OT CORNERSTONE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

73. At all relevant times US OUTLET STORES GURNEE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

74. At all relevant times US OUTLET STORES SAN ANTONIO, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

75. At all relevant times US OUTLET STORES SUNRISE II, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

76. At all relevant times US RETAIL STORES LAKE GROVE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

77. At all relevant times US RETAIL STORES, MCALLEN, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

78. At all relevant times US RETAIL STORES PEMBROKE PINES, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

79. At all relevant times US OUTLET STORES LAKEWOOD, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Colorado, having its principal place of business at 1400 Broadway, New York, New York.

80. At all relevant times US OUTLET STORES HANOVER, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Maryland, having its principal place of business at 1400 Broadway, New York, New York.

81. At all relevant times US OUTLET STORES WEST PALM BEACH, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

82. At all relevant times US OUTLET STORES TEMPE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Arizona, having its principal place of business at 1400 Broadway, New York, New York.

83. At all relevant times US RETAIL STORES NORTHRIDGE FASHION CENTER, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

84. At all relevant times US OUTLET STORES NEW ORLEANS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Louisiana, having its principal place of business at 1400 Broadway, New York, New York.

85. At all relevant times US RETAIL STORES EDISON MALL, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

86. At all relevant times US RETAIL STORES FLORIDA MALL, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

87. At all relevant times N&G SHOWCASE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

88. At all relevant times US RETAIL STORES FASHION SHOW, LLC was and is a domestic corporation duly organized and existing under and by virtue of the laws of Nevada, having its principal place of business at 1400 Broadway, New York, New York.

89. At all relevant times US RETAIL STORES GLENDALE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of California, having its principal place of business at 1400 Broadway, New York, New York.

90. At all relevant times US RETAIL STORES BRONX BAY PLAZA, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

91. At all relevant times 129 LAFAYETTE ASSOCIATES, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

92. At all relevant times US RETAIL STORES ELMHURST, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

93. At all relevant times NAKASH ELEVENTH STREET, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

94. At all relevant times US RETAIL STORES MIAMI-BAYSIDE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

95. At all relevant times US RETAIL STORES HIALEAH, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

96. At all relevant times US OUTLET STORES ORLANDO MARKETPLACE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

97. At all relevant times US OUTLET STORES FLORIDA KEYS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

98. At all relevant times SHOWCASE GROUND LESSEE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

99. At all relevant times SHOWCASE 1415, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

100. At all relevant times SHOWCASE COSMO, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

101. At all relevant times EC 2537 REALTY, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.



102. At all relevant times SHOWCASE INVESTORS 3, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

103. At all relevant times LAS VEGAS 3, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

104. At all relevant times NAKASH SHREVEPORT, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

105. At all relevant times US OUTLET STORES LAKE BUENA VISTA, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Florida, having its principal place of business at 1400 Broadway, New York, New York.

106. At all relevant times US RETAIL STORES CIELO VISTA, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

107. At all relevant times US RETAIL STORES MIRACLE MILE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Nevada, having its principal place of business at 1400 Broadway, New York, New York.

108. At all relevant times US RETAIL STORES GARDEN CITY, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

109. At all relevant times 999 E STREET OWNER, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

110. At all relevant times RN 999 E STREET, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

111. At all relevant times US RETAIL STORES MESQUITE, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Texas, having its principal place of business at 1400 Broadway, New York, New York.

112. At all relevant times NAKASH BROTHERS REALTY was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

113. At all relevant times SANTA ROSA, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

114. At all relevant times JB SANTA ROSA, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

115. At all relevant times US RETAIL STORES BOSTON, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

116. At all relevant times US OUTLET STORES LUTZ, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Nevada, having its principal place of business at 1400 Broadway, New York, New York.

117. At all relevant times US OUTLET STORES LAS VEGAS NORTH, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Nevada, having its principal place of business at 1400 Broadway, New York, New York.

118. At all relevant times US RETAIL STORES SHOWCASE MALL, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Nevada, having its principal place of business at 1400 Broadway, New York, New York.

119. At all relevant times US OUTLET STORES STATEN ISLAND, LLC was and is a domestic limited liability company duly organized and existing under and by virtue of the laws of New York, having its principal place of business at 1400 Broadway, New York, New York.

120. At all relevant times NH NASHVILLE BUILDING, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

121. At all relevant times JEMAL'S NASHVILLE TENANT, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

122. At all relevant times TCG NASHVILLE TENANT HOLDINGS, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

123. At all relevant times HIN B TENANT, LLC was and is a foreign limited liability company duly organized and existing under and by virtue of the laws of Delaware, having its principal place of business at 1400 Broadway, New York, New York.

124. At all relevant times Defendant was a foreign corporation organized and existing under and by virtue of the laws of the State of Rhode Island, having its principal place of business at 270 Central Avenue, Johnston, Rhode Island.

### **THE NOVEL CORONAVIRUS AND ITS EFFECTS**

125. It is beyond cavil that the world is currently experiencing a global pandemic from a disease caused by a novel coronavirus (specifically, SARS-COV-2) and commonly referred to as Covid-19.

126. From as early as December 2019, Covid-19 began spreading, first in China and then, because the disease is highly contagious, rapidly around the globe.

127. The first confirmed case of the virus outside China was diagnosed on January 13, 2020 in Bangkok, Thailand with the number of cases exceedingly increasing around the world.

128. On January 30, 2020, the World Health Organization (“WHO”) declared the Covid-19 outbreak constituted a public health emergency of international concern.

129. “Fomites” are physical objects or materials that carry, and are capable of transmitting infectious agents, altering these objects to become vectors of disease.<sup>53</sup> Fomite transmission has been demonstrated as highly efficient for viruses, both from object-to-hand and from hand-to-mouth.<sup>1</sup>

---

<sup>1</sup> CDC, Jing Cai, Wenjie Sun, Jianping Huang, Michelle Gamber, Jing Wu, Guiqing He, *Indirect Virus Transmission in Cluster of COVID-19 Cases, Wenzhou, China, 2020*, 26 EMERGING INFECTIONS DISEASES 6 (June 2020), [https://wwwnc.cdc.gov/eid/article/26/6/20-0412\\_article](https://wwwnc.cdc.gov/eid/article/26/6/20-0412_article) (last visited Mar. 20, 2021).

130. Fomites transform the surface of property into a potentially deadly Coronavirus transmission device. A study published in the Journal of Epidemiology and Infection demonstrated that after lockdown in the United Kingdom, Coronavirus transmission via fomites may have contributed to as many as 25% of deaths in that region.<sup>2</sup>

131. According to a study documented in The New England Journal of Medicine, Covid-19 was detectable in aerosols for up to 3 hours, up to 4 hours on copper, up to 24 hours on cardboard, and up to 3 days on plastic and stainless steel.<sup>3</sup>

132. Indeed, scientific studies suggest that individuals could get Covid-19 through indirect contact with surfaces or objects used by an infected person, regardless of whether the infected person was symptomatic.

133. Accordingly, the presence of the Coronavirus in and on property, including in indoor air, on surfaces, and on objects, causes direct physical loss of or damage to property by causing physical harm to and altering property and otherwise making it incapable of being used for its intended purpose.

134. Removing COVID is difficult as well. A number of studies have demonstrated that the Coronavirus is “much more resilient to cleaning than other respiratory viruses so tested.” The measures that must be taken to remove the Coronavirus from property are significant and far beyond ordinary or routine cleaning.

---

<sup>2</sup> A. Meiksin, *Dynamics of COVID-19 transmission including indirect transmission mechanisms: a mathematical analysis*, 148 EPIDEMIOLOGY & INFECTION e257, 1-7 (Oct. 2020), <https://www.cambridge.org/core/journals/epidemiology-and-infection/article/dynamics-ofCOVID19-transmission-including-indirect-transmission-mechanisms-a-mathematicalanalysis/A134C5182FD44BEC9E2BA6581EF805D3> (last visited Mar. 20, 2021).

<sup>3</sup> <https://www.nejm.org/doi/full/10.1056/nejmc2004973>

135. With respect to textiles, studies have demonstrated that virus can survive on fabrics and be transferred to skin and other surfaces, “suggesting it is biologically plausible that . . . infectious diseases can be transmitted directly through contact with contaminated textiles.” Given the inadequacy of conventional cleaning procedures, disinfection and decontamination measures include, but are not limited to, the use of harsh chemicals to perform deep disinfection, the removal and disposal of porous materials like clothing, cloth and other fabrics, thus making shipping Plaintiff’s goods nearly impossible during the beginning of the COVID pandemic. These measures, among others, demonstrate that the Coronavirus and COVID-19 cause physical loss of or damage to property

136. By February 25, 2020, the Center for Disease Control (“CDC”) warned Americans that the world was on the brink of a global pandemic, effectively dismantling any notion that SARS-COV-2 would not affect Americans’ lives.

137. From that point forward, Covid-19 and its damaging consequences received wide spread media attention.

138. As a result of this outbreak, the CDC began recommending that individuals stay at home and those who are not sick engage in preventative measures such as constant hand washing and the avoidance of activities that would bring them into close proximity of people or surfaces where the virus resides.

139. Given the nature of the Plaintiffs’ various businesses, the spread of Covid-19 virus led to significant economic damages.

140. These damages resulted from damage to and within the Plaintiffs insured premises as well as from premises within the vicinity of the various insured locations.

141. Such damage both existed on surfaces found within the insureds' premises and surrounding premises, as well as in the breathable air circulating within the insureds' premises and surrounding premises.

142. Such damages also existed on the surfaces of businesses on which the insureds' business depends, including locations within their supply chain, as well as in the breathable air circulating in those locations.

143. Such damage both existed on surfaces found within these properties as well as in the breathable air circulating within these dependent properties. The Coronavirus can remain infectious for "much longer time periods than generally considered possible."<sup>4</sup> In the *Journal of Virology*, researchers demonstrated that the Coronavirus can survive up to 28 days at room temperature (68°F) on a variety of surfaces including glass, steel, vinyl, plastic and paper.<sup>5</sup> A CDC report from March 27, 2020, stated that the Coronavirus was identified on surfaces of the cabins on the Diamond Princess cruise ship 17 days after the cabins were vacated but before they were disinfected.<sup>6</sup> Numerous other scientific studies and articles have identified the persistence of the Coronavirus on doorknobs, toilets, faucets and other high-touch points, as well as on commonly overlooked surfaces such as floors.<sup>7</sup>

---

<sup>4</sup> Shane Riddell, Sarah Goldie, Andrew Hill, Debbie Eagles & Trevor W. Drew, *The effect of temperature on persistence of SARS-CoV-2 on common surfaces*, 17 *VIROLOGY J.* 145 (2020), <https://doi.org/10.1186/s12985-020-01418-7> (last visited Mar. 31, 2021).

<sup>5</sup> *Id.*

<sup>6</sup> Leah F. Moriarty, Mateusz M. Plucinski, Barbara J. Marston, et al., *Public Health Responses to COVID-19 Outbreaks on Cruise Ships — Worldwide, February–March 2020*, 69 *MMWR* 12, 347-352, March 27, 2020 <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e3.htm> (last visited Mar. 21, 2021).

<sup>7</sup> Zhen-Dong Guo, Zhong-Yi Wang, Shou-Feng Zhang, Xiao Li, Lin Li, Chao Li, Yan Cui, Rui-Bin Fu, Yun-Zhu Dong, Xiang-Yang Chi, Meng-Yao Zhang, Kun Liu, Cheng Cao, Bin Liu, Ke Zhang, Yu-Wei Gao, Bing Lu, Wei Chen, *Aerosol and Surface Distribution of Severe Acute Respiratory Syndrome Coronavirus 2 in Hospital Wards, Wuhan, China, 2020*, 26 *EMERG. INFECT. DIS.* 7, 1583-91 (July 2020), <https://pubmed.ncbi.nlm.nih.gov/32275497/> (last visited Mar. 31, 2021).



144. In addition, human beings spread COVID-19 through the simple act of breathing in air that contains viral droplets. The New York Times recently reported that “[a]n infected person talking for five minutes in a poorly ventilated space can also produce as many viral droplets as one infectious cough.”<sup>8</sup>

145. The World Health Organization (“WHO”) states that “[t]he disease spreads primarily from person to person through small droplets from the nose or mouth, which are expelled when a person with COVID-19 coughs, sneezes, or speaks . . . . People can catch COVID-19 if they breathe in these droplets from a person infected with the virus . . . . These droplets can land on objects and surfaces around the person such as tables, doorknobs and handrails. People can become infected by touching these objects or surfaces, then touching their eyes, nose or mouth.”<sup>9</sup>

146. In addition, studies have verified that many individuals remain asymptomatic despite infection by COVID-19.<sup>10</sup> COVID-19 also includes a pre-symptomatic incubation period of up to 14 days, during which time infected people can transmit COVID-19 to people, into the air and onto surfaces without having experienced symptoms and without realizing that they are infected.<sup>11</sup> COVID-19 is not only highly contagious, but also deadly. In April 2020, 3 people

---

<sup>8</sup> <https://www.nytimes.com/interactive/2020/04/14/science/coronavirus-transmission-cough-6-feet-arul.html>

<sup>9</sup> *Q&A on coronaviruses (COVID-19)*, World Health Organization, <https://web.archive.org/web/20200506094904/https://www.who.int/emergencies/diseases/novelcoronavirus-2019/question-and-answers-hub/q-a-detail/q-a-coronaviruses> (last visited Mar. 20, 2021).

<sup>10</sup> <https://www.usnews.com/news/health-news/articles/2020-05-28/studies-detail-rates-of-asymptomatic-cases-of-coronavirus> (observing that 42% of infected persons in Wuhan, China were asymptomatic).

<sup>11</sup> See WHO, *Coronavirus disease 2019 (COVID-19) Situation Report - 73* (Apr. 2, 2020), <https://apps.who.int/iris/bitstream/handle/10665/331686/nCoVsitrep02Apr2020-eng.pdf?sequence=1&isAllowed=y> (last visited Mar. 20, 2021); Minghui Yang, Liang Li, Ting Huang, Shaxi Li, Mingxia Zhang, Yang, Yujin Jiang, Xiaohu Li, Jing Yuan, and Yingxia Liu, *SARS-CoV-2 Detected on Environmental Fomites for Both Asymptomatic and Symptomatic Patients with COVID-19*, <https://doi.org/10.1164/rccm.202006-2136LE> (last visited Mar. 31, 2021).

staying at a Hotel in midtown Manhattan died of COVID-19. The Hotel is located less than a mile from a number of the retailers that cancelled orders with the Plaintiff.<sup>4</sup>

147. Consequently, while during this time period it was possible to identify certain individuals who were suffering from obvious symptoms of the coronavirus, given a lack of significant medical testing at the time, it was impossible to distinguish between infected and non-infected members of the general public. Additionally, the existence and/or presence of the Coronavirus and COVID-19 is not simply reflected in reported cases or individuals' positive test results. The Centers for Disease Control and Prevention ("CDC") estimates that the number of people in the U.S. who have been infected with COVID-19 is likely to be 10 times higher than the number of reported cases.<sup>12</sup>

148. As a result of the COVID-19 pandemic, Plaintiff experienced a loss in revenue, among other losses.

149. In addition to a decrease in sales as a result of the desire of customers to avoid contracting the virus while visiting Plaintiffs locations, civil authority orders began to be issued by various states and localities where Plaintiffs maintain their stores and real estate, all of which require those properties to close their doors to the public. A non-exhaustive list of these orders is presented in Exhibit "A" hereto.

150. These orders were all predicated, in part, on the effect of the presence of Covid-19 within enclosed, highly trafficked locations.

---

<sup>12</sup> Lena H. Sun and Joel Achenbach, CDC chief says coronavirus cases may be 10 times higher than reported, WASH. POST (June 25, 2020), <https://www.washingtonpost.com/health/2020/06/25/coronavirus-cases-10-times-larger/> (last visited Mar. 31, 2021).

151. For example, the following relevant orders were issued by authorities in localities where Plaintiffs operate locations:

WHEREAS, on March 7, 2020, New York State Governor Andrew Cuomo declared a State disaster emergency for the entire State of New York to address the threat that COVID-19 poses to the health and welfare of New York residents and visitors; and

...

WHEREAS, this order is given because of the propensity of the virus to spread person to person and also because the virus physically is causing property loss and damage; and

NOW, THEREFORE, pursuant to the powers vested in me by the laws of the State of New York and the City of New York, including but not limited to the New York Executive Law, the New York City Charter and the Administrative Code of the City of New York, and the common law authority to protect the public in the event of an emergency:

...

Any large gathering or event for which attendance is anticipated to be in excess of fifty people, or in excess of any number established as the maximum number permitted by an order of the Governor issued pursuant to his powers under section 29-a of the Executive Law, is cancelled or postponed.

Each employer shall reduce the in-person workforce at any work locations by 50% no later than March 20, 2020 at 8:00 p.m., and shall further reduce its in-person workforce to the extent required by any order of the Governor issued pursuant to his powers under section 29-a of the Executive Law.

New York City Emergency Executive Order Nos. 100, 102

...

WHEREAS as of March 6, 2020 Pennsylvania Governor Tom Wolf proclaimed the existence of a disaster emergency throughout the commonwealth pursuant to 35 Pa. C.S. § 7301(c); and

...

WHEREAS, in addition to general powers, during a disaster emergency I am authorized specifically to control ingress and egress to and from a disaster area and the movement of persons within it and the occupancy of

premises therein; and suspend or limit the sale, dispensing, or transportation fo alcoholic beverages, firearms, and combustibles. 35 Pa. C.S. § 7301(f); and

...

WHEREAS these means include isolation, quarantine, and any other control measure needed. 35 P.S. § 521.5

...

NOW THEREFORE, pursuant to my authority vested in me and my Administration by the laws of the Commonwealth of Pennsylvania I do hereby ORDER and PROCLAIM as follows:

Section 1: Prohibition on Operation of Business that are not Life Sustaining.

No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether The business is open to members of the public.

Section 2: Prohibition on Dine-In Facilities including Restaurants and Bars.

...

Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of all Businesses that are not Life Sustaining.

152. As a result of these and similar orders, all of which evidenced the physical loss or damage being suffered by Plaintiffs, they additionally suffered losses resulting form the failure of their tenants to pay rent in a timely manner, as well as being compelled to meet their rental obligations as a tenant, notwithstanding the fact that the facilities were unusable.

**PLAINTIFFS' INSURANCE POLICY AND CLAIM**

153. This is an action for breach of insurance contract arising from the failure of Affiliated FM to provide payment to Plaintiff for its losses resulting from the global pandemic commonly referred to as coronavirus or Covid-19 beginning on or about March 17, 2020.

154. On or about April 27, 2019, for good and valuable consideration, Plaintiffs procured a policy of insurance from Affiliated FM Insurance Company (the "Subject Policy") bearing policy number KM931.

155. The Subject Policy provides coverage for, *inter alia*, physical loss or damage, as well as losses of income due to business interruption.

156. The Subject Policy bears effective dates from April 27, 2019 to April 27, 2020.

157. The Subject Policy was in full force and effect as of March 15, 2020 and for the period of time immediately thereafter.

158. The Subject Policy provides coverage for all risks of physical loss or damage including but not limited to coverage for the loss of business income in the amount of \$160,000,000.00 for each loss.

159. The Subject Policy provides in relevant part:

**A. LOSS INSURED**

This Policy insured Business interruption loss, as provided in the Business Interruption Coverage, as a direct result of physical loss or damage of the type insured:

1. To the property as described elsewhere in this Policy and not otherwise excluded by this Policy

...

**B. BUSINESS INTERRUPTION COVERAGE****2. Gross Profits**

The recoverable Gross Profits loss is the actual loss sustained by the Insured of the:

- a) **Reduction in Sales;** and the
- b) **Increased Cost of Doing Business,**

Resulting from the necessary interruption of business during the Period of Liability.

...

**3. Rental Income**

The recoverable Rental Income loss is the actual loss sustained by the Insured of the following during the Period of Liability:

- a) The fair rental value of any portion of the property occupied by the Insured;
- b) Income reasonably expected from the rentals of unoccupied or unrented portions of such property;
- c) The rental income from the rented portions of such property, according to bona fide leases, contracts or agreements, in force at the time of the loss.

160. The Subject Policy also includes Business Interruption Coverage Extensions in relevant part:

**1. Attraction Property**

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability directly resulting from physical loss or damage of the type insured to property of the type insured that attracts

business to a **described location** and is within one (1) statute mile of the **described location**.

## 2. Civil or Military Authority

This Policy covers the Business Interruption Coverage incurred by the Insured during the period of Liability if an order of civil or military authority prohibits access to a **location** provided such order is in direct result of physical damage of the type insured at a **location** or within five (5) statute miles of it.

## 3. Communicable Disease – Business Interruption

If a **described location** owned, leased or rented by the Insured has the actual not suspected presence of **communicable disease** and access to such **described location** is limited, restricted or prohibited by:

- a) An order of an authorized governmental agency regulating such presence of **communicable disease**;

...

## 7. Extended Period of Liability

The Gross Earnings and Rental Income coverage is extended to cover the reduction in sales resulting from:

- a) The interruption of business as covered by Gross Earnings or Rental Income;
- b) For such additional length of time as would be required with the exercise of due diligence and dispatch to restore the Insured's business to the condition that would have existed had no loss happened;

## 8. Ingress/Egress

This Policy covers the Business Interruption Coverage loss incurred by the Insured due to the necessary interruption of the Insured's business when ingress to or egress from a **described location(s)** is physically prevented, either partially or totally, as a direct result of



physical loss or damage of the type insured to property of the type insured whether or not at a **described location**.

...

## 16. Supply Chain

This Policy covers the Business Interruption Coverage loss incurred by the Insured during the Period of Liability directly resulting from physical loss or damage of the type insured to property of the type insured at the premises of any of the following within the Policy's Territory:

- a) Direct suppliers, direct customers or direct contract service providers to the Insured;
- b) Any company under any royalty, licensing fee or commission agreement with the Insured; or
- c) Any company that is a direct or indirect supplier, customer or contract service provider of those described in a) above,

...

Business Interruption Coverage loss recoverable under this Business Interruption Coverage Extension is extended to include the following Business Interruption Coverage Extensions:

- a) Civil or Military Authority
- b) Crisis Management
- c) Extended Period of Liability
- d) Ingress/Egress
- e) Off-Premises Service Interruption - Business Interruption
- f) Supply Chain

161. The Subject Policy also includes coverage for Professional Fees, Specifically:

## 23. Professional Fees

This Policy covers the reasonable and necessary expenses incurred by the Insured of:

- a) Auditors;
- b) Accountants;
- c) Architects;
- d) Engineers; or

e) Other professionals; and the Insured's own employees,

For producing and certifying particulars or details to determine the amount of loss payable under this Policy for which this Company has accepted liability.

162. No exclusion in the Subject Policy applies to preclude coverage for the actual presence of Covid-19 at or away from Plaintiffs' property, the physical loss and damage to the property or the business interruption losses that have and will continue to result from the physical loss and damage to the property.

163. The Subject Policy provides coverages for multiple locations, including those locations identified in Exhibit "B", as attached hereto.

164. As a result of the Covid-19 pandemic and the civil authority orders that flowed therefrom, Plaintiffs experienced a loss in revenue, amongst other losses.

165. In particular, beginning on or about March 15, 2020, Plaintiffs businesses were interrupted by various civil authority orders.

166. Most Plaintiffs primarily engage in the retail or outlet sale of goods, and have experienced loss primarily in the form of revenue lost from goods not sold.

167. Several Plaintiffs engage in the wholesale of goods, and have suffered losses resulting from the closures of businesses on which their own profits depend.

168. Similarly, JRA Trademark Ltd. licenses various trademarks for use in commerce and obtains payment through its licensing agreements once certain minimum sales are met. The closure of entities to whom marks were licensed, including without limitation certain department stores, has prevented sales from reaching the minimum amount required for Plaintiffs to receive the benefit of its bargain, thereby causing a loss to Plaintiffs.

169. Plaintiffs such as 633 Realty LLC, N&G Showcase LLC, and Shore Parkway Owner, LLC have additionally suffered the loss of rental income from the failure of tenants to pay rent.

170. For example, 633 Realty LLC's tenants include TOBMAR, a newsstand, that failed to pay rent through October, when the newsstand sent a notice of dissolution.

171. Similarly, the rent of N&G Showcase LLC's tenant DSW was abated from April through July.

172. Shore Parkway Owner, LLC, likewise suffered losses when its tenant, Regal Cinemas, discontinued operations of a movie theatres on the leased property.

173. Additionally, Plaintiffs Hotel Victor, LLC, 1444 Drexel, LLC d/b/a Casa Victoria Orchid Hotel, and NH Nashville Building, LLC (the "Hotel Plaintiffs"), engage primarily in hotel services.

174. Plaintiffs were unable to operate during certain periods and suffered ongoing losses as a result of the pandemic.

175. For the retail plaintiffs, which were not considered essential businesses, this included closures both as a result of the physical presence of the disease in their premises and as a result of civil orders requiring shutdowns. The hotel plaintiffs suffered similar losses, including both the physical presence of the disease and civil orders requiring shutdowns.

176. For the wholesale plaintiffs, losses resulted both from closures as a result of the physical presence of the disease in their premises, as a result of civil orders requiring shutdowns, and as a result of the impact of the disease on its dependent properties (i.e., retailers), who were affected as described in the preceding paragraph.

177. Plaintiffs incurred additional expenses, including without limitation cleaning fees and the increased cost of cleaning supplies, in an effort to mitigate the damages caused by the pandemic.

178. Plaintiffs hired an accountant to assist in calculating their claim and are entitled to recovery of professional fees for his time spent with regard to same.

179. As Plaintiffs losses continue to mount and hoping to obtain some monetary relief, on or about June 8, 2020, Plaintiffs submitted a Sworn Statement in Proof of Loss in the amount of \$21,360,161.00.

180. Pursuant to Insurance Law § 216.6, Affiliated FM Insurance Company had 15 days to accept or reject the claim submitted by Plaintiffs in a timely manner.

181. On or about June 8, 2020, Defendant sent Plaintiffs correspondence acknowledging receipt of Plaintiffs' Sworn Statement in Proof of Loss, and stating the Defendant would begin the process of reviewing the Proof of Loss.

182. On or about June 19, 2020, Affiliated FM Insurance Company, through its attorney Richard D. Gable, Jr. of Butler Weihmuller Katz Craig LLP, issued a request for information consisting of a generic questionnaire that reflected a clear lack of attention to the claim submitted by Plaintiffs.

183. Notwithstanding the generic nature of Defendant's Request for Information, on or about August 20, 2020 Plaintiffs provided responses thereto.

184. By letter dated September 21, 2020, Defendant denied the majority of Plaintiffs' claim in light of its baseless conclusion that there was no actual presence of the disease at Plaintiffs' premises, and that no physical loss or damage had occurred.

185. As documented by all of the information Plaintiffs have provided to Defendant, Plaintiffs had suffered a loss in the amount of \$21,360,161.00.

186. To date, Plaintiffs have suffered \$51,580,820 in damages, which includes: (1) \$25,0006,341 for retail sale losses; (2) \$10,765,120 for wholesale losses; (3) \$176,896 for extra expenses; (4) \$11,486,388 for hotel service losses; (5) \$719,095 for trademark licensing losses; (6) \$4,104,270 for lost rental income; and (7) \$45,000 for professional fees.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT**  
(Breach of Contract)

187. Plaintiffs repeat and reallege paragraphs “1” through “186”, with the same force and effect as if set forth at length herein.

188. The Subject Policy constituted a binding contract between Plaintiffs and Affiliated FM Insurance Company.

189. Plaintiffs complied with all of their obligations under the Subject Policy, including through timely notification of a loss and the filing of a Sworn Statement in Proof of Loss.

190. The Proof of Loss documents the losses suffered by Plaintiffs based upon the various Orders issued.

191. To date, Affiliated FM has failed to compensate Plaintiffs for any of the losses documented in the Sworn Statement in Proof of Loss submitted to Affiliated FM Insurance Company on or about June 8, 2020.

**WHEREFORE**, Plaintiff demands judgment against Affiliated FM Insurance Company as follows:

- (a) On the First Cause of Action, a money judgment against Affiliated FM Insurance Company in the combined amount of at least \$51,580,820.00, together with such additional and subsequent damages as may be proven at trial; and
- (b) Reasonable fees and costs and such other and further relief as to which this Court deems just and proper.

Dated: New York, New York  
May 13, 2021

Yours, etc.,

**WEG AND MYERS, P.C.**  
*Attorneys for Plaintiff*

By: /s/ /Joshua L. Mallin/  
Joshua L. Mallin, Esq.  
Dennis T. D'Antonio, Esq.  
Federal Plaza  
52 Duane Street, 2<sup>nd</sup> Floor  
New York, New York 10007  
(212) 227-4210