

IN THE CIRCUIT COURT IN THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

NEW AMERICAN BAR & GRILL LLC D/B/A
GENGIZ KHAN MEDITERRANEAN GRILL,

Plaintiff,

v.

CERTAIN UNDERWRITERS AT
LLOYD'S LONDON SUBSCRIBING
TO POLICY NUMBER AS35019FLP00903,

Defendant.

CASE NO:

PETITION FOR DECLARATORY JUDGMENT

Plaintiff, NEW AMERICAN BAR & GRILL LLC D/B/A GENGIZ KHAN MEDITERRANEAN GRILL (hereinafter "NEW AMERICAN BAR & GRILL"), by and through undersigned counsel bring this Petition for Declaratory Judgment against Defendant, CERTAIN UNDERWRITERS AT LLOYD'S LONDON SUBSCRIBING TO POLICY NUMBER AS35019FLP00903 (hereinafter "LLOYD'S"). As its Petition, Plaintiff alleges as follows:

INTRODUCTION

1. This action arises from the denial of commercial insurance benefits. NEW AMERICAN BAR & GRILL owns and operates a marketing business located in Hillsborough County, Florida. This Court has jurisdiction pursuant to Fla. Stat. §86.011.

2. NEW AMERICAN BAR & GRILL purchased, and LLOYD'S issued, a commercial lines policy numbered AS35019FLP00903 (the "Policy") containing coverage for, amongst other things, business income, extra expense, civil authority and ingress/egress. A complete copy of the policy is attached as Exhibit A and is also within LLOYD'S possession.

3. In late 2019 and early 2020, an outbreak of respiratory illness caused by a novel coronavirus n/k/a COVID-19 started to infect humans worldwide.

4. On March 11, 2020, The World Health Organization (“WHO”) declared the COVID-19 outbreak a pandemic (i.e. a global outbreak of disease).

5. Throughout the month of March 2020, governments around the world, including the U.S. Government, State of Florida including Hillsborough County, began ordering the shut down of non-essential businesses and ordering citizens to stay at home in order to slow the spread of COVID-19.

6. As such and in following the directive by the Governor and local officials, Plaintiff’s business was impacted by the closings.

7. After NEW AMERICAN BAR & GRILL had incurred losses, it made a claim (the “Claim”) with LLOYD’S under the Policy.

8. LLOYD’S acknowledged the claim, assigned it claim number AS35019FLP00903, and subsequently denied the Claim by a letter dated June 29, 2020. A copy of the denial letter is attached hereto as Exhibit “B”.

9. LLOYD’S interpretation of the Policy is incorrect.

10. NEW AMERICAN BAR & GRILL therefore brings this action to obtain the benefits due under the Policy and seek a declaratory judgement on relevant provisions of the Policy on which the parties are relying.

11. NEW AMERICAN BAR & GRILL has complied with all conditions precedent to bring this action.

PARTIES AND JURISDICTION

12. NEW AMERICAN BAR & GRILL is a Florida entity with its principal place of

business in Hillsborough County, Florida.

13. LLOYD'S has engaged and is engaged in business in Hillsborough County, Florida by issuing insurance policies and adjusting claims in Hillsborough County.

14. Venue is proper in the Circuit because the conduct at issue occurred in Hillsborough County, Florida and Defendant is present in this Circuit through its business activities.

FACTUAL ALLEGATIONS

15. On March 22, 2020 citing concerns for increasing danger to the County from COVID-19, Hillsborough County officials announced it will close non-essential business beginning at 12:01 am March 22, 2020.

16. NEW AMERICAN BAR & GRILL is classified as a non-essential business.

17. The Policy covers acts of Civil Authority.

18. Civil Authority actions impaired the operation of NEW AMERICAN BAR & GRILL business and caused decreased income.

19. Pursuant to the Policy, LLOYD'S insured NEW AMERICAN BAR & GRILL for business income losses and extra expenses.

20. NEW AMERICAN BAR & GRILL suffered a loss of business income and other covered damages as a direct result of the acts of Civil Authority and other covered causes.

21. Subject to limitations and exclusions, the Policy insured against all risks of direct physical loss or damage NEW AMERICAN BAR & GRILL's property.

CAUSE OF ACTION

22. Florida Statute §86.021 creates a right to declaratory judgment when a question of construction or validity arises under a contract.

23. The purpose of a declaratory judgment is to afford relief for a person's insecurity and uncertainty with respect to their rights, status, or other equitable or legal relations.

24. There is a bona fide, actual, present need for a declaratory judgment to determine this matter.

25. Based upon the forgoing, NEW AMERICAN BAR & GRILL is in doubt as to its rights under the terms and provisions of the subject policy of insurance and the law of the state of Florida.

26. There is a bona fide, present dispute amongst the parties regarding their rights and obligations under the subject policy of insurance.

27. The requested declaration deals with a presently ascertainable set of facts.

28. The rights of NEW AMERICAN BAR & GRILL, herein, are dependent upon the facts set forth herein or law applicable to these facts.

29. The parties to this action have an actual, present, adverse and antagonistic interest in the subject matter, either in fact or in law.

30. The antagonistic and adverse interests are all before the Court by proper process.

31. The relief sought is not merely the giving of legal advice by the Court in the above, or the answer to questions propounded by curiosity.

32. NEW AMERICAN BAR & GRILL asks the Court to affirm that the Civil Authority constitutes a direct physical loss or damage to property.

33. NEW AMERICAN BAR & GRILL asks the Court to affirm that the decreased use of the property because of Civil Authority is tantamount to direct physical loss or damage to property.

34. NEW AMERICAN BAR & GRILL asks the Court to affirm that acts of Civil Authority are tantamount to a direct physical loss or damage to property.

35. NEW AMERICAN BAR & GRILL asks the Court to affirm that Civil Authority is

a covered cause of loss under the Policy not subject to any exclusions.

36. Due to LLOYD'S refusal to perform its obligations under the terms and conditions of the insurance policy and Florida statutes, NEW AMERICAN BAR & GRILL was forced to retain the services of Gordon & Partners and the Law Offices of Todd S. Stewart, P.A. for the purpose of prosecuting the instant lawsuit and such attorneys are entitled to reasonable attorney fees pursuant to Fla. Stat. §627.428 and/or Fla. Stat. §626.9373.

WHEREFORE, the Plaintiffs respectfully requests that this Court:

- a. take jurisdiction over this matter for purposes of entering a declaratory decree;
- b. having taken jurisdiction, enter a judgment declaring that LLOYD'S has a duty to indemnify NEW AMERICAN BAR & GRILL, under the above-referenced policy of insurance.
- c. Enter a judgment declaring the virus inclusion/exclusion provisions unenforceable due to their illusory nature.
- d. grant NEW AMERICAN BAR & GRILL such other and further relief as the Court shall deem appropriate; and,
- e. retain jurisdiction of the parties and subject matter in order to assess attorney's fees and costs against LLOYD'S pursuant to Florida Statute §627.428 and other relevant provisions of the law of the state of Florida.
- f. retain jurisdiction to enter such further orders as may be required to enforce this Court's declaration of the Parties' rights; and,
- g. retain jurisdiction for any other relief that this Court deems just, proper and equitable.

Dated: July _21_, 2020

Respectfully Submitted,

GORDON & PARTNERS, P.A.

By: /s/ Mark Hanson

Mark Hanson

GORDON & PARTNERS PA

3309 Northlake Blvd. Suite 207

Palm Beach Gardens, FL 33410

Tel.: (561) 799-5070

Fax: (561) 799-4050

Email:

MHanson@ForTheInjured.com

Pleadings email:

mrh.pleadings@fortheinjured.com

Todd Stewart

THE LAW OFFICES OF TODD

STEWART

824 W. Indiantown Rd,

Jupiter, Florida 33458

Tel: (561) 743-2002

Fax: (561) 743-2009

Email: Todd@Trialcounselor