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**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
IN AND FOR CLAY COUNTY, FLORIDA**

CASE NO.: _____
DIVISION: _____

SALON EURO INC D/B/A SALON 2000

Plaintiff,

vs.

HARTFORD CASUALTY INSURANCE
COMPANY,

Defendant.

_____/

COMPLAINT

COMES NOW, Plaintiff, SALON EURO INC d/b/a SALON 2000 (hereinafter "Plaintiff"), by and through the undersigned attorneys, brings this action for Declaratory Relief and Breach of Insurance Policy against the Defendant, HARTFORD CASUALTY INSURANCE COMPANY (hereinafter "Defendant"), and alleges the following:

JURISDICTION AND VENUE

1. Jurisdiction and venue of this matter are proper in the Circuit Court for Clay County, Florida because:
 - i. The amount in controversy is more than \$30,000, exclusive of interest, costs, and attorney's fees and is otherwise within the jurisdictional limits of this Court;
 - ii. Defendant is a corporation duly licensed to transact insurance business in the State of Florida;
 - iii. Defendant does business, has offices, and/or maintained agents for the transaction of its customary business in Clay County, Florida;

- iv. The damage caused by Defendant's wrongful conduct relating to the failure to pay full value for business interruption to Plaintiff under the terms of the policy of insurance, for which this lawsuit seeks redress, occurred in Clay County, Florida;
- v. The Policy at issue here was entered into in Clay County, Florida;
- vi. The Property insured by the Policy is located in Clay County, Florida.

PARTIES

- 2. At all material times relevant to this Complaint, Plaintiff has owned and operated Salon Euro Inc, d/b/a Salon 2000, a salon located at 1560 Business Center drive, Suite 7, Fleming Island, Florida 32003 (hereinafter the "Subject Property"), with a reputation for being a premier Aveda salon specializing in the latest trends and techniques in skin care, hair care, massage therapy, and total wellness since 2000, and is otherwise *sui juris*.
- 3. Defendant has been and is now a surplus insurance carrier authorized to insure all properties located in the State of Florida, including properties located in Clay County, Florida, and is otherwise *sui juris*.

THE INSURANCE POLICY

- 4. In consideration for the premiums paid to it, Defendant issued Plaintiff a valid, binding, and enforceable policy of insurance bearing Policy Number 01 SBA ZC5199 (hereinafter the "Policy"). A true and correct copy of the Policy is attached hereto and incorporated herein as **Exhibit A**.
- 5. The Policy is an "all risk" insurance policy that covers all losses to the Subject Property that are not otherwise expressly excluded.
- 6. The Policy was and is effective between the dates of October 23, 2019, and October 23, 2020.

THE CORONAVIRUS PANDEMIC

7. “Coronaviruses are a family of viruses that can cause illnesses such as the common cold, severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS). In 2019, a new coronavirus was identified as the cause of a disease outbreak that originated in China” designated as SARS-CoV-2 also known as the 2019 Novel Corona Virus or COVID-19 (hereinafter “COVID-19”).¹
8. On March 9, 2020, Florida Governor Ron DeSantis, on the recommendations of the Centers for Disease Control and Prevention (“CDC”), the State Surgeon General, and the State Health Officer, declared that a State of Emergency exists in Florida as a result of the COVID-19 outbreak.²
9. On March 13, 2020, Clay County issued a Proclamation of Local Emergency due to the presence of COVID-19 posing “a threat to the public health of Clay County residents, workers, and visitors.”³
10. On March 11, 2020, the World Health Organization announced that, due to “the alarming levels of spread and severity,” the COVID-19 outbreak rose to the level of a pandemic.⁴
11. On March 13, 2020, President Donald J. Trump declared that the "COVID-19 outbreak constitutes a national emergency" and applied same retroactively to March 2, 2020.⁵

¹ Mayo Clinic, Coronavirus Disease 2019 (COVID-19), <https://www.mayoclinic.org/diseasesconditions/coronavirus/symptoms-causes/syc-20479963>.

² Office of the Governor of Florida, Executive Order Number 20-52 (March 9, 2020), https://www.flgov.com/wpcontent/uploads/orders/2020/eo_20-52.pdf.

³ Howard Wanamaker, County Manager, Proclamation of Local Emergency (March 13, 2020) <https://www.claycountygov.com/Home/ShowDocument?id=6782>

⁴ World Health Organization, WHO Director-General’s Opening Remarks at the Media Briefing on COVID-19 (March 11, 2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-mediabriefing-on-covid-19---11-march-2020>

⁵ President Donald J. Trump, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus

12. On April 1, 2020, The State of Florida, by and through Governor Ron Desantis, issued Executive Order 20-91 ordering the closure of all nonessential retail and commercial businesses due to the Public Health Emergency that exists in the State of Florida as a result of Covid-19.⁶

THE CLAIM

13. On or about March 26, 2020, the COVID-19 pandemic caused direct physical loss and resultant/ensuing damages to the Subject Property (hereinafter the "Loss").

14. Additionally, as a result of the Loss, Plaintiff sustained a loss of business income.

15. To compound issues, the closure of all nonessential retail and commercial businesses as mandated in the State of Florida Executive Order Number 20-91 caused additional lost business income.

16. Direct, resultant, and/or ensuing damages and/or loss of business income caused by the COVID-19 pandemic and Executive Order 20-91 are covered under the Subject Policy.

17. Direct, resultant, and/or ensuing damages and/or loss of business income caused by the COVID-19 pandemic and Executive Order 20-91 are not specifically excluded from the Subject Policy.

18. Plaintiff timely notified Defendant of the Loss.

19. Defendant responded to the Loss by opening claim number Y93 F 54968 (hereinafter the "Claim").

20. Through its adjustment of the Claim, Defendant has been afforded the opportunity

Disease (COVID-19) Outbreak (March 13, 2020) <https://www.whitehouse.gov/presidential-actions/proclamationdeclaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

⁶ Office of the Governor of Florida, Executive Order Number 20-91 (April 1, 2020), https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-91-compressed.pdf

to fully inspect the Loss, investigate the cause of the Loss, and quantify the amount of the Loss.

21. Ultimately, Defendant denied coverage for the Claim without inspection or investigation.

A copy of the denial correspondence is attached hereto as **Exhibit “B.”**

22. Plaintiff has complied with all prerequisites, whether denominated conditions precedent, duties after loss, or otherwise, to receive benefits or proceeds under the Subject Policy, or maintain the instant suit for the breach or declaration of the Subject Policy; alternatively, Defendant has waived or never had standing to assert any prerequisites, whether denominated as conditions precedent, duties after loss, or otherwise.

COUNT I – DECLARATORY RELIEF

23. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 22 as if fully set forth herein and further state:

24. This is an action for declaratory judgment pursuant to Section 86.011 Florida Statutes.

25. The Spectrum Policy Declarations contained within the Subject Policy reflects Property Optional Coverages Applicable Limits of Insurance as follows:

* * *

Action of Civil Authority: 30 days

* * *

See Exhibit A, SS 00 02 12 06, page 4

26. The Special Property Coverage Form contained within the Subject Policy states as follows:

A. COVERAGE

* * *

q. Civil Authority

(1) This insurance is extended to apply to the actual loss of Business Income you sustain when access to your "scheduled Premises" is specifically prohibited by order of a civil authority as the direct result of a Covered Cause of Loss to property in the immediate area of your "scheduled premises."

(2) The coverage for Business income will begin 72 hours after the order of a civil authority and coverage will end at the earlier of:

- (a) When access is permitted to your "scheduled premises" or
- (b) 30 consecutive days after the order of the civil authority.

See Exhibit A, SS 00 07 07 05 (Page 11 of 25).

27. The Special Property Coverage Form Exclusions within the Subject Policy states as follows:

B. EXCLUSIONS

* * *

3. We will not pay for loss or damage caused by or resulting from any of the following. But if physical loss or physical damage by a Covered Cause of Loss results, we will pay for that resulting physical loss or physical damage.

* * *

b. Acts or Decisions: Acts or decisions, including the failure to act or decide, of any person, group, organization, or governmental body.

See Exhibit A, SS 00 07 07 05, Page 18 of 25.

28. The Limited Fungi, Bacteria or Virus Coverage Endorsement contained within the Subject Policy states as follows:

A. Fungi, Bacteria or Virus Exclusions

* * *

- (5) Under this Additional Coverage, we will not pay for:
- (a) the enforcement of any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling, or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet or dry rot, bacteria or virus, or

(b) Any costs associated with the enforcement of an ordinance or law which requires an insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants", "fungi", wet or dry rot, bacteria or virus.

See Exhibit A, SS 40 93 07 05

29. However, that same Limited Fungi, Bacteria or Virus Coverage Endorsement contained within the Subject Policy states as follows:

* * *

1. Limited Coverage for "Fungi", Wet Rot, Dry Rot, Bacteria and Virus

* * *

- a. The coverage described in 1.b. below only applies when the "fungi", wet rot, dry rot, bacteria and virus is the result of one or more of the following causes that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

(1) A "specified cause of loss" other than fire or lightning;

* * *

- b. We will pay for loss or damage by "fungi", wet rot, dry rot, bacteria and virus. As used in this Limited Coverage, the term loss or damage means:

(1) Direct physical loss or direct physical damage to Covered Property caused by "fungi", wet rot, dry rot, bacteria or virus, including the cost of removal of the "fungi", wet rot, dry rot, bacteria and virus.

See Exhibit A SS 40 93 07 05

30. Additionally, The Spectrum Policy Declarations contained within the Subject Policy reflects Limits of Insurance as follows:

* * *

Limited Fungi, Bacteria or Virus Coverage: \$50,000
Form SS 40 93
This is the maximum amount of

Insurance for this coverage,
Subject to all property limits
Found elsewhere on this declaration.
Including Business Income and Extra Expense coverage for: 30 days

See Exhibit A, SS 00 02 12 06, page 003

31. Upon information and belief, a portion of the premiums paid by Plaintiff to Defendant for the Subject Policy account for coverage of damages caused by 1) civil authority, and 2) by virus.
32. Defendant's denial of the Claim was based, in pertinent part, on the assertion that "coronavirus did not cause property damage at your place of business or in the immediate area, [therefore] the business income loss is not covered."
33. Based on the above-cited provisions, the policy appears to both exclude and afford coverage for damages caused by civil authority.
34. Based on the above-cited provisions, the policy appears to both exclude and afford coverage for damages caused by virus'.
35. To the extent the Subject Policy contains conflicting terms regarding coverage and exclusions for damages caused by civil authority, the terms of the Subject Policy are ambiguous.
36. To the extent the Subject Policy contains conflicting terms regarding coverage and exclusions for the damages caused by virus', the terms of the Subject Policy are ambiguous.
37. As such, Plaintiff is in doubt as to its rights under the Subject Policy and whether the policy provides coverage for damages and/or a loss of business income caused by civil authority and/or viruses such as COVID-19.

38. Defendant's actions and positions taken demonstrate an actual, present practical need for declaration from this Honorable Court.
39. This Honorable Court is permitted to determine the existence or non-existence of any right, duty, power, or privilege, or of any fact upon which the legal relationship between the parties depends.
40. The Plaintiff is entitled to have this Honorable Court remove all doubts raised by Defendant concerning the application of the facts of the Claim to the Subject Policy.
41. The declaration sought with regard to the instant controversy is of a justiciable nature, does not amount to an advisory decree, and will assist in the resolution of the controversy between the parties.
42. As a result of this dispute, it has become necessary that Plaintiff retain the services of the undersigned attorneys. Plaintiff is obligated to pay a reasonable fee for the undersigned attorneys' services in bringing this action, plus costs. Plaintiff is entitled to reimbursement of these fees and costs by the Defendant subject to Section 626.9373 and/or Section 627.428, Florida Statutes.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- A. Take jurisdiction of the subject matter and parties thereto;
- B. Determine applicable laws that apply to the Subject Policy;
- C. Declare that the provisions of the Subject Policy, including any ambiguities, be construed strictly and most strongly against the insurer, and liberally in favor of the insured, so as to affect the dominant purpose of coverage and/or indemnification;

- D. Declare that the Subject Policy does not blanketly exclude coverage for loss caused by viruses;
- E. Declare that the Subject Policy does not blanketly exclude coverage for loss caused by civil authority;
- F. Declare that the Plaintiff is entitled to a claim for attorneys' fees and costs against Defendant, and to determine the amount of such fees and costs to be paid to the Plaintiff inclusive of a contingency fee multiplier; and
- G. Determine and declare any other material matters pertaining to the respective rights and responsibilities under the Policy, as needed to do complete justice in this case.

COUNT II – BREACH OF CONTRACT

- 43. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 42 as if fully set forth herein and further state:
- 44. Defendant has failed and/or refused to honor the contractual coverage as previously stated in the Subject Policy by failing and/or refusing to compensate Plaintiff and/or pay benefits owed under the Subject Policy for the Claim based on the Loss.
- 45. Plaintiff has suffered damages including, but not limited to, insurance benefits under the Subject Policy and damages from Defendant's breach of the Subject Policy.
- 46. Defendant's denial of the Claim and refusal to pay any amounts due and owing under the Subject Policy is a breach of the insurance contract.
- 47. As a result of this dispute, it has become necessary that Plaintiff retain the services of the undersigned attorneys. Plaintiff is obligated to pay a reasonable fee for the undersigned attorneys' services in bringing this action plus costs. Plaintiff is entitled to reimbursement

of these fees and costs by the Defendant subject to Section 626.9373 and/or Section 627.428, Florida Statutes.

48. Should Plaintiff prevail in this action, Plaintiff shall be entitled to interest as prescribed by Section 627.70131(5)(a) Florida Statutes.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court award:

- A. General compensatory damages;
- B. Consequential damages;
- C. Interest;
- D. Attorneys' fees associated with the instant litigation, including a contingency fee multiplier;
- E. Costs incurred as a result of the instant litigation; and
- F. Any such other and further relief as this Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, SALON EURO INC d/b/a SALON 2000, demands a trial by jury on all issues so triable.

Respectfully submitted this 24th day of June, 2020.

THE BUSH LAW GROUP, L.L.C.



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