

1  
2 JOHN C. BLACK, WSBA #15229  
3 RICHARD T. WETMORE, WSBA #40396  
4 DUNN & BLACK, P.S.  
5 111 N. Post, Suite 300  
6 Spokane, WA 99201-0907  
7 Telephone: (509) 455-8711  
8 E-mail: [jblack@dunnandblack.com](mailto:jblack@dunnandblack.com)  
9 E-mail: [rwetmore@dunnandblack.com](mailto:rwetmore@dunnandblack.com)

10 Attorneys for Plaintiffs

11  
12 UNITED STATES DISTRICT COURT  
13 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

14 WORTHY HOTELS, INC., a )  
15 Washington corporation; THE )  
16 DAVENPORT HOTEL, INC., a )  
17 Washington corporation; )  
18 DAVENPORT COLLECTION )  
19 PAYROLL, LLC, a Washington )  
20 limited liability company; )  
21 DAVENPORT HOTEL, LLC, a )  
22 Washington limited liability company; )  
23 DAVENPORT TOWER, LLC, a )  
24 Washington limited liability company; )  
25 HOTEL LUSSO, LLC, a Washington )  
26 limited liability company; )  
27 DAVENPORT HOTEL OPCO, LLC, )  
28 a Washington limited liability )  
29 company; DAVENPORT TOWER )  
30 OPCO, LLC, a Washington limited )  
31 liability company; HOTEL LUSSO )  
32 OPCO, LLC, a Washington limited )

NO.  
**COMPLAINT AND DEMAND  
FOR JURY TRIAL**

33 COMPLAINT AND DEMAND  
34 FOR JURY TRIAL - 1

1 liability company; CONVENTION )  
 2 CENTER HOTEL, LLC, a )  
 3 Washington limited liability company; )  
 4 GRAND HOTEL SPOKANE OPCO, )  
 5 LLC d/b/a THE DAVENPORT )  
 6 GRAND, a Washington limited )  
 7 liability company; THE )  
 8 CENTENNIAL, LLC, a Washington )  
 9 limited liability company; )  
 10 CENTENNIAL OPCO, LLC, a )  
 11 Washington limited liability company; )  
 12 and WORTHY ENTERPRISES, LLC, )  
 13 a Washington limited liability )  
 14 company, )

Plaintiffs,

vs.

12 FIREMAN’S FUND INSURANCE )  
 13 COMPANY, a California corporation, )  
 14 Defendant. )  
 15 )  
 16 )

17 Plaintiffs by and through their attorneys of record, Dunn & Black, P.S., allege as  
18 follows:

19 **PARTIES, JURISDICTION, & VENUE**

20  
 21 1. Plaintiff Worthy Hotels, Inc. is a Washington corporation, duly licensed  
 22 and doing business in the State of Washington with its principal place of business in  
 23 Washington.  
 24

25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 2

**Dunn & Black**  
 A Professional Service Corp.  
 111 North Post, Suite 300  
 Spokane, WA 99201  
 VOICE: (509) 455-8711 • FAX: (509) 455-8734

1           2.     Plaintiff The Davenport Hotel, Inc. is a Washington corporation, duly  
2 licensed and doing business in the State of Washington with its principal place of  
3 business in Washington.

4           3.     Plaintiff Davenport Collection Payroll, LLC is a Washington limited  
5 liability company, duly licensed and doing business in the State of Washington with its  
6 principal place of business in Washington.

7           4.     Plaintiff Davenport Hotel, LLC is a Washington limited liability  
8 company, duly licensed and doing business in the State of Washington with its principal  
9 place of business in Washington.

10          5.     Plaintiff Davenport Tower, LLC is a Washington limited liability  
11 company, duly licensed and doing business in the State of Washington with its principal  
12 place of business in Washington.

13          6.     Plaintiff Hotel Lusso, LLC is a Washington limited liability company,  
14 duly licensed and doing business in the State of Washington with its principal place of  
15 business in Washington.

16          7.     Plaintiff Davenport Hotel OPCO, LLC is a Washington limited liability  
17 company, duly licensed and doing business in the State of Washington with its principal  
18 place of business in Washington.

19          ///  
20

21         ///  
22

23  
24  
25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 3

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 8. Plaintiff Davenport Tower OPCO, LLC is a Washington limited liability  
2 company, duly licensed and doing business in the State of Washington with its principal  
3 place of business in Washington.

4 9. Plaintiff Hotel Lusso OPCO, LLC is a Washington limited liability  
5 company, duly licensed and doing business in the State of Washington with its principal  
6 place of business in Washington.

7  
8 10. Plaintiff Convention Center Hotel, LLC is a Washington limited liability  
9 company, duly licensed and doing business in the State of Washington with its principal  
10 place of business in Washington.

11 11. Plaintiff Grand Hotel Spokane OPCO, LLC d/b/a The Davenport Grand is  
12 a Washington limited liability company, duly licensed and doing business in the State of  
13 Washington with its principal place of business in Washington.

14  
15 12. Plaintiff The Centennial, LLC is a Washington limited liability company,  
16 duly licensed and doing business in the State of Washington with its principal place of  
17 business in Washington.

18 13. Plaintiff Centennial OPCO, LLC is a Washington limited liability  
19 company, duly licensed and doing business in the State of Washington with its principal  
20 place of business in Washington.

21  
22 ///

23 ///

24  
25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 4

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 14. Plaintiff Worthy Enterprises, LLC is a Washington limited liability  
2 company, duly licensed and doing business in the State of Washington with its principal  
3 place of business in Washington.

4 15. The above identified Plaintiffs are herein referred to collectively as  
5 “Worthy”.

6 16. Defendant Fireman’s Fund Insurance Company (“Fireman’s Fund”) is a  
7 California corporation with its principal place of business in Illinois. Fireman’s Fund is  
8 authorized to do business in and is doing business as an insurance company in  
9 Washington State. Fireman’s Fund is registered with the Washington Office of the  
10 Insurance Commissioner license number 459.

11 17. Diversity exists between the Worthy Plaintiffs and Defendant Fireman’s  
12 Fund, and Worthy’s claims are for damages in excess of \$75,000 exclusive of interest,  
13 costs, and attorney fees. Therefore, the Court has proper jurisdiction pursuant to  
14 28 U.S.C. § 1332.

15 18. Defendant Fireman’s Fund is licensed to do business and does business as  
16 an insurance company issuing insurance policies within the Western District of  
17 Washington. Therefore, venue is proper pursuant to 28 U.S.C. § 1391.

18 19. Worthy has complied with RCW 48.30.015(8)(a) and provided notice of  
19 the basis for this cause of action to Fireman’s Fund and to the Office of the Insurance  
20  
21  
22  
23  
24

1 Commissioner at least twenty days prior to filing these claims for violation of the  
2 Insurance Fair Claims Act, RCW 48.30.015.

3 20. Fireman's Fund has failed to resolve the basis for the action within the  
4 twenty-day notice period.

5 **FACTS**

6 21. Worthy realleges and incorporates by reference all preceding allegations  
7 as if fully stated herein.  
8

9 **A. Worthy's Business**

10 22. Worthy owns and operates a number of local luxury hotels, including,  
11 without limitation, the Historic Davenport, Davenport Tower, Davenport Grand,  
12 Davenport Lusso, and The Centennial.

13 23. In total, Worthy's various hotels offer 1,787 rooms in Washington State.

14 24. Worthy also owns and operates a number of connected and/or  
15 freestanding restaurants, retail outlets, and a spa, each of which is located in or around  
16 the different Worthy hotels.  
17

18 25. Worthy's customer base can generally be characterized in one of three  
19 broad sectors: 1) group travel (contracted conventions/conferences, meetings, weddings,  
20 and other events); 2) special corporate/business travel (contracted accounts with  
21 preferred companies who have volumes of travel, e.g., Boeing, Microsoft, etc.); and  
22

23  
24  
25 **COMPLAINT AND DEMAND**  
26 **FOR JURY TRIAL - 6**

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 3) transient/leisure travel (all other individual reservations for leisure and some business  
2 travel).

3 26. Worthy’s business is heavily reliant upon travelers, group gatherings, and  
4 local community events, including without limitation: concerts, live performances,  
5 athletic events, Bloomsday, Hoopfest, trade shows, conventions, conferences, meetings,  
6 community parades, and other large public events.

7  
8 27. Consequently, Worthy purchased an all-risk property insurance policy  
9 from Defendant in order to protect Worthy from economic devastation caused by  
10 potential catastrophic events.

11 **B. The Policy**

12 28. Worthy purchased a Property-Gard Pinnacle Coverage Policy, Form  
13 250000 01 13, for policy period July 15, 2019—July 15, 2020 (the “Policy”). Worthy  
14 renewed the Policy for the period July 15, 2020—July 15, 2021.

15  
16 29. Worthy is a first-party insured under Defendant Fireman’s Fund’s  
17 insurance policy.

18 30. Worthy paid all premiums for the coverage when due.

19 31. Defendant Fireman’s Fund promised to “*pay for the actual loss of*  
20 *business income and necessary extra expense* [Worthy] *sustain due to the necessary*  
21 *suspension of* [Worthy’s] *operations during the period of restoration arising from*  
22

1 *direct physical loss or damage to property at a **location**, or within 1,000 feet of such*  
2 ***location**, caused by or resulting from a **covered cause of loss**.”*

3 32. The Policy defines “**Covered cause of loss**” as “*risks of direct physical*  
4 *loss or damage not excluded or limited in this Coverage Form.*”

5 33. “**Suspension**” means “*the slowdown or cessation of [Worthy’s]*  
6 *operations, or that a part or all of the described premises is rendered untenable.*”

7 34. The Policy defines “**Operations**” as “*the usual and customary business*  
8 *activities in the conduct of **your business** occurring at the **location**, including the*  
9 *tenability of the **premises**.”*

10 35. The Policy includes, without limitation, Business Income Coverage, Extra  
11 Expense Coverage, Extended Business Income Coverage, Business Access Coverage,  
12 Civil Authority Coverage, and Communicable Disease Coverage.

13 36. The Policy issued by Defendant Fireman’s Fund includes standard forms  
14 used by Fireman’s Fund for all insureds having applicable coverage.

15 37. Plaintiff Worthy did not participate in the drafting or negotiation of the  
16 Policy or forms utilized by Fireman’s Fund.

17  
18  
19 **C. The Pandemic**

20 38. In or about January 2020, the United States of America saw its first cases  
21 of persons infected by COVID-19.  
22  
23  
24



1           39.    On January 31, 2020, the United States Department of Health and Human  
2 Services declared a public health emergency for COVID-19.

3           40.    On March 11, 2020, the World Health Organization declared COVID-19  
4 to be a worldwide pandemic.

5           41.    In light of this pandemic, on February 29, 2020, Washington State  
6 Governor Jay Inslee issued Proclamation 20-5, declaring a State of Emergency for all  
7 counties in the state of Washington as a result of COVID-19.

8           42.    Thereafter, Governor Inslee issued a series of certain proclamations and  
9 orders affecting many persons and businesses in Washington, whether infected with  
10 COVID-19 or not, requiring certain public health precautions.

11           43.    On March 16, 2020, Governor Inslee issued Proclamations 20-13 and  
12 20-14.

13           44.    In order to preserve and maintain life, health, property, and the public  
14 peace, Proclamation 20-13 restricted people from congregating in any public venue for  
15 the purpose of public entertainment, recreation, food and beverage service, theater,  
16 fitness, and other similar activities. Proclamation 20-13 prohibited the onsite  
17 consumption of food and/or beverages in restaurants, food courts, bars, taverns, coffee  
18 shops, catered events, clubs, and other similar venues in which people congregate for  
19 the consumption of food or beverages.  
20  
21  
22  
23  
24

25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 9

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 45. Proclamation 20-14 prohibited the gathering of more than 50 people  
2 unless such activities could comply with social distancing requirements established by  
3 the CDC or the Washington State Department of Health guidelines.

4 46. On March 23, 2020, Governor Inslee issued Proclamation 20-25, “Stay  
5 Home – Stay Healthy.”

6  
7 47. Governor Inslee’s “Stay Home – Stay Healthy” proclamation stated “*the*  
8 *worldwide COVID-19 pandemic and its progression in Washington State continues to*  
9 *threaten the life and health of our people as well as the economy of Washington State*  
10 *and remains a public disaster affecting life, health or the public peace..”*

11 48. The Proclamation continued, “*...to help preserve and maintain life,*  
12 *health, property, or the public peace, and to implement the Stay Home—Stay Health*  
13 *Order described above, I hereby impose the following necessary restrictions on*  
14 *participation by all people in Washington State by prohibiting each of the following*  
15 *activities by all people and business throughout.”*

16  
17 49. In order to preserve and maintain life, health, and property the “Stay  
18 Home – Stay Healthy” proclamation required, in part, that “[*a*]*ll people in Washington*  
19 *State shall immediately cease leaving their home or place of residence except: (1) to*  
20 *conduct or participate in essential activities, and/or (2) for employment in essential*  
21 *business services.”*

22  
23  
24  
25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 10

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 50. The Proclamation continued, in part, “*all people in Washington State,*  
2 *shall immediately cease participating in all public and private gatherings and multi-*  
3 *person activities for social, spiritual, and recreational purposes, regardless of the*  
4 *number of people involved....*”

5 51. Governor Inslee’s order was extended on multiple occasions until it was  
6 allowed to expire on May 31, 2020, as part of a new four-phased approach to “re-  
7 opening” Washington under the Safe Start Washington Plan.

8 52. On or about June 27, 2020, Governor Inslee announced he was “pausing”  
9 all counties in Washington from continued progression in the phased Safe Start  
10 Washington Plan.  
11

12 53. As of the date of filing this Complaint, Spokane County was still in Phase  
13 2 of Governor Inslee’s re-opening program, leading to significant continued business,  
14 travel, recreational, and gathering restrictions.  
15

16 **D. Worthy’s Covered Losses**

17 54. A growing body of evidence suggests that the virus transmits both through  
18 droplets, when someone sneezes and coughs, and aerosols, which are produced by  
19 normal breathing. Aerosols are particularly concerning, because unlike droplets, which  
20 stay airborne for only a few seconds, aerosols are water droplets suspended in air and  
21 can remain suspended for hours until gravity ultimately forces them to the nearest  
22 surface below. Consequently, aerosols can spread widely through airflow and settle on  
23  
24

1 surfaces hundreds of feet away from any infected individual. Thus, someone not even  
2 in the vicinity of an infected person can unknowingly touch an infected surface, later  
3 touch their face, and become infected.

4 55. A series of scientific studies and scholarly articles indicate that COVID-  
5 19 can remain alive on various surfaces for days and even weeks.

6 56. Moreover, no viable method of detecting or identifying contaminated  
7 surfaces is known to exist.

8 57. Worthy’s businesses are highly susceptible to rapid person-to-person or  
9 property-to-person transmission of the virus due to the social and business gathering  
10 nature of Worthy’s businesses.

11 58. As a premier luxury hotel provider in Washington State, Worthy’s  
12 customer base is comprised of regional, national, and international travelers. From  
13 January 2020 through March 2020, Worthy’s hotels sold over 14,000 rooms, many  
14 with double occupancy or more.

15 59. Worthy’s national and international guests include customers from  
16 Seattle, New York, Florida, California, and China, all of which were known “hot  
17 spots” for early virus outbreaks.

18 60. On March 14, 2020, the first cases of the virus in Spokane County were  
19 confirmed.

1           61.    Upon information and belief, COVID-19 particles have been and/or were  
2 at risk of being physically present at or around Worthy's insured premises - both  
3 airborne and on surfaces and items of property at or around Plaintiffs' premises - during  
4 the time the Policies were in effect and remained physically present for up to 28 days.

5           62.    Moreover, the Governor's orders prohibited much of Worthy's various  
6 business entities, including the onsite service of food and beverages. The orders also  
7 restricted most of Worthy's customer base, described above, from engaging in the  
8 activities that drive the Worthy business model.  
9

10          63.    On March 16, 2020, in response to the Governor's orders and due to the  
11 actual and/or risk of the presence of COVID-19 in and around its locations, Worthy was  
12 forced to close all but one of its hotels, as well as its restaurants, lounges, retail outlets,  
13 fitness centers, pools, and spa.  
14

15          64.    Plaintiff Worthy's properties sustained both risks of, and actual direct  
16 physical loss or damage to, property related to COVID-19 and/or the proclamations and  
17 orders.  
18

19          65.    Indeed, the actual and/or risk of the presence of the virus on and around  
20 Worthy's properties, confirmed by the Governor's orders, rendered Worthy's properties  
21 unsafe and unfit for their intended use.

22          66.    Furthermore, the Governor's Stay Home - Stay Healthy Order prohibited  
23 public access to a variety of locations, including, without limitation, the Convention  
24

Center, the Spokane Arena, the Performing Arts Center, and many other event locations within five miles of Worthy’s insured properties, upon which Worthy relies to generate its business.

67. By its terms, the Governor’s Order prohibited access to any location where the public gathers for social, religious, and non-essential business reasons in Washington State, where Worthy’s properties are located.

68. Plaintiff Worthy’s covered properties have been and continue to be closed and/or severely restricted as a result of the pandemic and resulting civil authority order, and much of its customer base has been forbidden or severely limited.

69. Worthy suffered the physical loss of use of the covered properties for their intended purpose caused by the risk and/or actual presence of COVID-19 on Worthy’s insured properties and/or the Governor’s Proclamations.

70. Plaintiff Worthy’s property will continue to sustain both risks of and actual direct physical loss of use or damage to the properties covered by the Fireman’s Fund Policy or Policies, including, but not limited to, Business Income Coverage, Extra Expense Coverage, Extended Business Income Coverage, Business Access Coverage, Civil Authority Coverage, and Communicable Disease Coverage.

71. As a result of the above, Plaintiff Worthy has experienced and will continue to experience significant financial losses covered by the Fireman’s Fund Policy or Policies.

**E. Defendant’s Wrongful Denial of Coverage**

1  
2 72. On or about May 14, 2020, Worthy filed a claim with Defendant  
3 Fireman’s Fund for insured losses incurred by Worthy as a result of the COVID-19  
4 pandemic.

5 73. On or about May 18, 2020, Fireman’s Fund wrongfully and in bad faith  
6 denied Worthy’s claim without first conducting any meaningful coverage investigation.  
7

8 74. As a result of Fireman’s Fund’s wrongful conduct, Plaintiff Worthy has  
9 suffered damages, including attorney fees and costs, in an amount to be determined at  
10 trial.

11 **FIRST CAUSES OF ACTION**  
12 **(Violation of Insurance Fair Conduct Act)**

13 75. Worthy realleges and incorporates by reference all preceding allegations  
14 as if fully stated herein.

15 76. Worthy was a first-party insured under the Policy, number S 86 DZJ  
16 80998266, issued by Fireman’s Fund.  
17

18 77. On or about May 14, 2020, Worthy submitted a first-party claim to  
19 Fireman’s Fund.

20 78. In violation of RCW 48.30 et seq., Fireman’s Fund unreasonably denied  
21 Worthy’s claim for coverage or payment of benefits without first conducting any  
22 meaningful coverage investigation.  
23

24  
25 **COMPLAINT AND DEMAND**  
26 **FOR JURY TRIAL - 15**

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 79. Such unreasonable denial includes, without limitation, violations of  
2 WAC 284-30-330 and WAC 284-30-350.

3 80. As a direct and proximate result, Worthy has suffered monetary damages  
4 and will suffer monetary damages in the future in an amount to be proven at the time of  
5 trial.

6 81. Pursuant to RCW 48.30.015(2), Worthy is also entitled to an award of  
7 treble damages based upon a finding that Fireman’s Fund unreasonably denied  
8 Worthy’s claim for coverage.

9 82. Pursuant to RCW 48.30.015(3), Worthy is entitled to an award of  
10 reasonable attorney fees and actual and statutory litigation costs, including expert  
11 witness fees, based upon a finding that Fireman’s Fund unreasonably denied Worthy’s  
12 claim for coverage.  
13  
14

15 **SECOND CAUSE OF ACTION**  
16 **(Bad Faith)**

17 83. Worthy realleges and incorporates by reference all preceding allegations  
18 as if fully stated herein

19 84. At the time Worthy became an insured under the Policy, Worthy placed  
20 its trust in Fireman’s Fund and its employees/representatives to act in good faith and in  
21 a reasonable manner in the event Worthy should ever make a claim against the Policy.

22 85. Fireman’s Fund was in a fiduciary relationship with Worthy and was  
23 under a duty to deal fairly with its insured, including, without limitation, to engage in  
24

25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 16

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734



1 fair and equitable settlements where applicable; to engage in a prompt and thorough  
2 investigation of claims; and to use the skill, care, and knowledge of other claims  
3 representatives and underwriters practicing as insurance claims representatives and  
4 underwriters in evaluating and investigating claims made by the insured.

5 86. Fireman’s Fund, in bad faith, failed to fully and completely investigate  
6 Worthy’s claims in a prompt and thorough manner as required by law, and wrongfully  
7 and in bad faith denied coverage on Worthy’s claims. Fireman’s Fund acted in  
8 violation of Washington law, including, without limitation, RCW 48.30 et seq., WAC  
9 284-30-330 and WAC 284-30-350.  
10

11 87. As a direct and proximate result, Worthy has suffered monetary damages  
12 and will suffer monetary damages in the future in an amount to be proven at the time of  
13 trial including attorney fees and costs.  
14

15 **THIRD CAUSE OF ACTION**  
16 **(Negligence)**

17 88. Worthy realleges and incorporates by reference all preceding allegations  
18 as if fully stated herein.

19 89. Fireman’s Fund was in a fiduciary relationship with Worthy and was  
20 under a duty to deal fairly with its insured, including, without limitation, to engage in  
21 fair and equitable settlements where applicable; to engage in a prompt and thorough  
22 investigation of claims; and to use the skill, care, and knowledge of other claims  
23

24  
25 **COMPLAINT AND DEMAND**  
26 **FOR JURY TRIAL - 17**

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 representatives and underwriters practicing as insurance claims representatives and  
2 underwriters in evaluating and investigating claims made by the insured.

3 90. Fireman’s Fund negligently failed to investigate Worthy’s claim in a  
4 prompt and thorough manner as required by law and negligently denied coverage on  
5 Worthy’s claims.

6 91. As a direct and proximate result, Worthy has suffered monetary damages  
7 and will suffer monetary damages in the future in an amount to be proven at trial.  
8

9 **FOURTH CAUSE OF ACTION**  
10 **(Breach of Contract)**

11 92. Worthy realleges and incorporates by reference all preceding allegations  
12 as if fully stated herein.

13 93. Fireman’s Fund’s denial of Worthy’s claim for damages was in violation  
14 of the terms of the Policy and is a breach of the insurance contract, since the Policy  
15 clearly covers the losses incurred and imposed upon Fireman’s Fund the duty to  
16 reimburse Worthy for such losses.  
17

18 94. Fireman’s Fund’s denial of the claim breached the implied covenant of  
19 good faith and fair dealing.

20 95. Fireman’s Fund has breached the insurance contract under which Worthy  
21 was an insured under the Policy.  
22

23  
24  
25 **COMPLAINT AND DEMAND**  
26 **FOR JURY TRIAL - 18**

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 96. As a direct and proximate result of such breaches, Worthy has incurred  
2 damages, including consequential and incidental damages, the exact extent of which  
3 will be proven at the time of trial. Worthy has incurred and will incur additional  
4 attorney fees and costs in order to seek coverage under this contract as a result of  
5 Fireman’s Fund’s breach. Fireman’s Fund is liable for all such damages suffered by  
6 Worthy.

7  
8 **FIFTH CAUSE OF ACTION**  
9 **(Violation of Consumer Protection Act)**

10 97. Worthy realleges and incorporates by reference all preceding allegations  
11 as if fully stated herein.

12 98. Fireman’s Fund engaged in unfair and deceptive acts and practices under  
13 the Washington Consumer Protection Act, RCW 19.86, et seq., and applicable insurance  
14 regulations promulgated by the Washington Insurance Commissioner in WAC 284-30 et  
15 seq.

16 99. Fireman’s Fund’s conduct is unlawful, unfair and deceptive. Furthermore,  
17 such conduct has the capacity to deceive a substantial portion of the purchasing public.

18 100. Worthy has suffered damages as a direct and proximate result of  
19 Fireman’s Fund’s unfair or deceptive acts or practices. Furthermore, Fireman’s Fund’s  
20 conduct impacts the public interest.  
21  
22  
23  
24

25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 19

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 101. As a direct and proximate result of Fireman’s Fund’s unfair and deceptive  
2 acts and practices, Worthy has sustained actual damages in an amount to be proven at  
3 the time of trial. Worthy is entitled to recover treble damages, litigation costs, and  
4 attorney fees pursuant to RCW 19.86.090.

5 **SIXTH CAUSE OF ACTION**  
6 **(Declaratory Judgment)**

7 102. Worthy realleges and incorporates by reference all preceding allegations  
8 as if fully stated herein.

9 103. Worthy requests a declaratory ruling by the Court that Worthy is an  
10 insured covered by the Fireman’s Fund’s Insurance Policy and that Worthy is entitled to  
11 the benefits of the Policy, including, without limitation, payment for the losses sustained  
12 as a result of the COVID-19 pandemic and associated civil authority orders.  
13

14 **PRAYER FOR RELIEF**

15 WHEREFORE, the Worthy Plaintiffs pray for the following relief:

- 16 1. For judgment against Fireman’s Fund Insurance Company in an amount to  
17 be proven at trial;  
18  
19 2. For treble damages as provided by applicable law, RCW 48.30.015  
20 and/or RCW 19.86.090;  
21  
22 3. For interest provided by applicable law;  
23  
24

25 COMPLAINT AND DEMAND  
26 FOR JURY TRIAL - 20

**Dunn & Black**  
A Professional Service Corp.  
111 North Post, Suite 300  
Spokane, WA 99201  
VOICE: (509) 455-8711 • FAX: (509) 455-8734

1 4. For attorney fees and costs, including expert witness fees as provided by  
2 applicable law and/or RCW 48.30.15, RCW 19.86.090, and Olympic S.S. Co., Inc. v.  
3 Centennial Ins. Co., 117 Wn.2d 37, 811 P.2d 673 (1991);

4 5. For a declaration that the Worthy Plaintiffs are covered by Defendant’s  
5 insurance policy for the losses; and

6 6. For further relief the Court deems just and equitable.  
7

8 **DEMAND FOR JURY TRIAL**

9 Plaintiffs hereby demand a trial by a jury in this case.

10 DATED this 13<sup>th</sup> day of October, 2020.  
11

12 DUNN & BLACK, P.S.

13  
14 /s/ RICHARD T. WETMORE  
15 JOHN C. BLACK, WSBA #15229  
16 RICHARD T. WETMORE, WSBA #40396  
17 Attorneys for Plaintiffs  
18 Dunn & Black, P.S.  
19 111 North Post, Ste. 300  
20 Spokane, WA 99201-0907  
21 Telephone: (509) 455-8711  
22 Fax: (509) 455-8734  
23 E-mail: [jblack@dunnandblack.com](mailto:jblack@dunnandblack.com)  
24 E-mail: [rwetmore@dunnandblack.com](mailto:rwetmore@dunnandblack.com)