

NOTICE TO PLEAD

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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AVISO

La han demandado a usted en la corte. Si usted quiere defensora de estas demandas expuestas en la paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas or sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede doci-dir a favor del demandante y requiere que usted compla con todas las provisiones de esta demanda. Usted puede poder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABODAGO INMEDIATAMENTE. SI NO TIENE ABODAGO O SINO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**Asociacion DeLicenciados De Filadelfia
Servicio DeReferencia E Información Legal
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INTRODUCTION

1. By orders of the Governors of Pennsylvania, Illinois, Florida, and New York entered by the foregoing governmental entities (hereinafter the “Closure Orders”), and through no fault of its own, Plaintiff Magna Legal Services, LLC (“Plaintiff” or “Magna”) has been required to cease all business activities and operations at its physical offices and other locations where it transacts business beginning on March 16, 2020, and continuing to the present date. In addition, Magna’s customers across the United States, including Pennsylvania, New Jersey, New York, Florida, Illinois, California, Louisiana, Delaware, Texas, and Washington D.C., have likewise been required to cease or significantly restrict their business activities thereby causing interruption to Magna’s own.

2. In breach of the insurance obligations it voluntarily undertook to insure Plaintiff in return for Plaintiff’s substantial premium payments, Defendant Hartford Fire Insurance Company (“Hartford”) wrongfully denied Plaintiff’s claims for loss of business income, contingent business income, and losses caused by governmental action compelling the interruption and closure of Plaintiff’s business operations and of its customers. Hartford’s obligation to provide coverage to Plaintiff under the all-risk policy is moreover clear and unambiguous given that unlike many commercial property insurance policies, Plaintiff’s policy includes limited virus coverage.

PARTIES

3. Plaintiff Magna Legal Services, LLC provides end-to-end legal support services to law firms, corporations, and governmental agencies throughout the nation. Among other things, these services include court reporting, conference rooms, record retrieval, jury consulting, graphic design for trials, and court and “war room” setup for trials and hearings.

4. Much of the services provided by Magna occur in-person in its own facilities as well as at courthouses and those of its clients and elsewhere, such as at hotels and conference centers across the country. As a result, Magna's business activities at its offices and other locations substantially depend on the ability of its customers to conduct their own business, wherever situated. Magna's business is heavily dependent on law firms, corporations and governmental agencies across the country, whose operations have also been interrupted by executive, judicial and other civil authority orders. Magna's business has thus been interrupted by not only the statewide civil authority orders closing non-essential businesses, but also court orders closing the courts.

5. Plaintiff is a limited liability company organized under the laws of Pennsylvania with its principal place of business in Pennsylvania, and offices in Pennsylvania, New Jersey, New York, Florida, Illinois, California, Louisiana, Delaware, Texas, and Washington D.C.

6. Defendant Hartford Fire Insurance Company ("Hartford") is an insurance company engaged in the business of selling insurance for commercial entities such as Plaintiff in Pennsylvania, and elsewhere. Hartford is incorporated in the State of Connecticut and maintains its principal place of business in Connecticut.

7. At all times material hereto, Defendant Hartford acted by and through its agents, ostensible agents, servants and employees, acting in the course and scope of their agency and/or employment, for whose conduct Hartford is liable for, vicariously or otherwise.

8. Defendant Nottingham Agency, Inc. ("Nottingham") is an insurance broker engaged in the business of obtaining insurance coverage for commercial entities, such as Plaintiff in Pennsylvania and elsewhere. Nottingham is incorporated in the State of New Jersey and maintains its principal places of business in Pennsylvania and New Jersey.

9. At all times material hereto, Defendant Nottingham acted by and through its agents, ostensible agents, servants and employees, including, but not limited to, Defendant Jonathan M. Crook, acting in the course and scope of their agency and/or employment, for whose conduct Nottingham is liable for, vicariously or otherwise.

10. Defendant Jonathan M. Crook (“Crook”) is an individual engaged in the business of obtaining insurance coverage for commercial entities such as Plaintiff in Pennsylvania. Defendant Crook is an adult individual and a citizen of Pennsylvania. Defendant Crook rendered advice and otherwise serviced Magna’s insurance needs. Magna relied on his knowledge, expertise, advice and experience in purchasing the insurance at issue in this action.

FACTUAL ALLEGATIONS

A. The COVID-19 Pandemic.

11. Reports indicate that the first case of a person contracting the novel coronavirus that has come to be known as COVID-19 can be traced back to November 17, 2019 in China. Since then, COVID-19 has spread worldwide, infecting more than 3 million people.

12. As of May 6, 2020, 50,957 cases of COVID-19 have been confirmed in the Commonwealth of Pennsylvania. The State of New York has had 321,192 cases confirmed, while the State of Illinois has had 65,926 cases confirmed and the State of Florida, 37,439 cases.

13. The World Health Organization declared on March 11, 2020, that COVID-19 constituted a global pandemic.

14. Because of the novel nature of COVID-19, research into the virus is still in its early stages, but emerging evidence and reports from the CDC indicate that individuals

potentially exposed to the coronavirus should self-isolate for 14 days and that it can stay alive on surfaces for at least 17 days and potentially considerably longer.

15. According to guidance from the CDC, gatherings of more than 10 people should be canceled in communities where there is even minimal spread of COVID-19.

B. The Commonwealth of Pennsylvania’s Closure Orders.

16. In response to the actual and threatened spread of COVID-19, civil authorities throughout the United States have issued orders requiring the suspension of non-essential business and preventing citizens from leaving their homes for non-essential purposes.

17. Governor Tom Wolf issued a Proclamation of Disaster Emergency on March 6, 2020, recognizing a state-wide emergency caused by the actual and threatened spread of COVID-19.

18. On March 13, 2020, Governor Wolf announced that all K-12 Pennsylvania schools will be closed for 10 days, effective March 16, 2020.

19. On March 16, 2020, Governor Wolf put Commonwealth-wide mitigation efforts into effect, in part, recommending that non-essential businesses close.

20. Governor Wolf then issued an Order on March 19, 2020, requiring all non-life-sustaining businesses in the Commonwealth to cease operations and close all physical locations.

21. Governor Wolf issued another Order on March 23, 2020, directing the residents of Philadelphia, Allegheny, Bucks, Chester, Delaware, Monroe and Montgomery Counties to stay at home.

22. Also on March 23, 2020, Pennsylvania’s Department of Health issued an Order which recognized that the “operation of non-life-sustaining businesses present the opportunity

for unnecessary gatherings, personal contact and interaction that will increase the risk of transmission and the risk of community spread of COVID-19.”

23. On April 1, 2020, Governor Wolf extended the earlier Stay at Home Order to the entire Commonwealth, which will remain in effect until at least May 8, 2020.

24. Governor Wolf has put forward a plan for a phased reopening of the Commonwealth beginning on May 8, 2020, to be based on the conditions in each county.

25. The Supreme Court of Pennsylvania reviewed the constitutionality of Governor Wolf’s Orders in *Friends of Danny Devito v. Tom Wolf*, No. 68 MM 2002, noting that the COVID-19 pandemic “qualifies as a ‘natural disaster’” as “the only commonality among the disparate types of specific disasters referenced [in the Emergency Code] is that they all involve ‘substantial damage to property, hardship, suffering or possible loss of life.’” In then addressing the argument that the Governor’s emergency powers do not include the ability to close businesses outside of a “disaster area”, the Court recognized that “[t]he virus spreads primarily through person-to-person contact, has an incubation period of up to fourteen days, one in four carriers of the virus are asymptomatic, and the virus can live on surfaces for up to four days. Thus, any location (including Petitioner’s businesses) where two or more people can congregate is within the disaster area.”

C. The State of Illinois’s Closure Orders.

26. On March 15, 2020, Governor J.B. Pritzker issued Executive Order 2020-07, requiring all bars, restaurants, and movie theaters located in Illinois close to the public beginning the next day.

27. Five days later, on March 20, 2020, Governor Pritzker issued a Closure Order (Executive Order 2020-10) closing all “non-essential” businesses in Illinois.

28. In issuing Executive Order 2020-10, Governor Pritzker recognized that COVID-19 “has rapidly spread through Illinois”, that additional measures are necessary to preserve public health and safety and that COVID-19 has resulted in “significant economic impact, including loss of income and wages[.]”

D. The State of Florida’s Closure Orders.

29. On March 1, 2020, Governor Ron DeSantis issued Executive Order 20-51, directing the Florida Department of Health to issue a Public Health Emergency.

30. Governor DeSantis thereafter issued Executive Order 20-52 declaring a state of emergency statewide as a result of COVID-19.

31. Governor DeSantis issued Executive Order 20-80 on March 23, 2020, requiring all individuals that fly into Florida from a state with substantial community spread to self-isolate in Florida for 14 days or the duration of their trip.

32. Just four days later, Governor DeSantis extended that Order with the issuance of Executive Order 20-86, which required all individuals that drive into Florida from a state with substantial community spread to self-isolate in Florida for 14 days or the duration of their trip.

33. On April 1, 2020, Governor DeSantis issued Executive Order 20-91, which directed that all persons in Florida shall limit their movements and personal interactions outside of their homes to only those necessary to obtain or provide essential services or conduct essential activities.

E. The State of New York's Closure Orders.

34. New York Governor Andrew Cuomo declared a disaster emergency in the State of New York on March 7, 2020.

35. On March 20, 2020, Governor Cuomo signed the New York State on Pause Executive Order, which required the closure of all non-essential businesses statewide, effective March 22, 2020.

F. Defendants Nottingham and Crook obtain the Choice Policy for Magna.

36. At all relevant times, Defendants Nottingham and Crook held themselves out as experienced insurance brokers with expertise in evaluating, recommending and binding appropriate insurance coverage for commercial business clients.

37. In 2019, Plaintiff engaged Nottingham and Crook to provide expertise, recommendations and assistance in securing all appropriate insurance coverages for its business.

38. Defendant Crook, as an employee of Nottingham and acting within the scope and course of his employment with Nottingham, consulted with Plaintiff on multiple occasions and directly provided advice and expertise to Magna in procuring all appropriate insurance coverage.

39. During consultations with Defendant Crook, Plaintiff requested, and Defendant Crook agreed and undertook to procure and bind all appropriate insurance coverage, including as broad as possible Business Income, Contingent Business Income, Expense and Civil Authority coverages.

40. In addition to agreeing and undertaking to procure and bind all appropriate insurance coverage, including as broad as possible Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverage, Defendant Crook, individually and acting

on behalf of Defendant Nottingham, also agreed and represented that he and Nottingham would explain and provide advice to Plaintiff about the coverages it was recommending to meet Magna's objectives.

41. At all relevant times, Plaintiff expected and reasonably relied upon Defendants Nottingham and Crook to procure and bind all appropriate insurance coverage, including as broad as possible Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverages.

42. At all relevant times, Plaintiff expected and reasonably relied upon Defendants Nottingham and Crook to accurately describe the breadth and any limitations of insurance it procured, including any exclusions or limitations for Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverages.

43. As the insurance broker for Plaintiff, Defendant Crook recommended, finalized and submitted an application of insurance to Hartford for Plaintiff.

44. As the insurance broker for Plaintiff, Defendants Crook and Nottingham obtained Business Insurance Choice Policy No. 39 UNN HV8309 K1 (hereinafter the "Choice Policy") with Hartford for Plaintiff for the policy period of March 7, 2020 to March 7, 2021. The Choice Policy is attached hereto as Exhibit 1.

45. Language and exclusions in insurance policies vary. Some policies exclude or limit coverage for losses caused by viruses and viral pandemics, others do not. At all relevant times, Plaintiff relied upon Defendant Crook to ensure that Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverages were as broad as possible and included losses related to viruses, viral pandemics and any related orders of a civil authority.

46. On April 27, 2020, Hartford sent a letter to Plaintiff disclaiming coverage for Business Income, Contingent Business Income, and Extra Expense. *See* Exhibit 2.

47. Hartford disclaimed coverage on the asserted grounds that any business income loss suffered by Plaintiff was the result of the novel Coronavirus, which Hartford represented to be excluded under the Choice Policy. Exhibit 2.

48. As a consequence of Hartford's denial of coverage, Plaintiff has not been reimbursed for the significant loss of income it has incurred in the past and will continue to incur.

49. At all relevant times, Plaintiff expected and reasonably relied upon Defendant Crook to review the Choice Policy in its entirety, to be fully knowledgeable about the scope of all coverages under the Choice Policy, and to explain any purported exclusions or limitations, including exclusions or limitations, for income losses due to viruses, pandemics or related orders of civil authorities.

50. At no time did Defendant Crook, or any other employee or agent of Nottingham, explain that the Business Income, Contingent Business Income, Extra Expense and Civil Authority coverages contained in the Choice Policy excluded coverage for losses related to viruses, pandemics or related orders of civil authorities.

51. At all relevant times, based on the representations of Defendant Crook, Plaintiff reasonably assumed that he and Nottingham had bound on behalf of Magna as broad as possible Business Income, Contingent Business Income, Extra Expense and Civil Authority coverages without exclusions for viruses, pandemics or related orders of civil authorities.

52. But for the negligence and misrepresentations of Defendant Crook, individually and acting on behalf of Defendant Nottingham, Plaintiff would have purchased as broad as possible Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverage that would have avoided the significant and continuing decline in its business income, which it has experienced and continues to experience.

G. Hartford's Choice Policy and its Coverage Obligations Thereunder.

53. In exchange for substantial premiums, Hartford sold an "all risk" Policy to Plaintiff that defined "Covered Causes of Loss" to mean "direct physical loss or direct physical damage that occurs during the Policy Period in the Coverage Territory unless the loss or damage is excluded or limited in this policy."

54. The Policy promised indemnity for losses resulting from "the necessary interruption of your business operations during the Period of Restoration due to direct physical loss of or direct physical damage to property caused by or resulting from a Covered Cause of Loss at 'Scheduled Premises' where a limit of insurance is shown for Business Income and Extra Expense."

55. Hartford also agreed to pay for the "actual loss of Business Income" sustained "and the actual, necessary and reasonable Extra Expense" incurred "when access to [the] 'Scheduled Premises' is specifically prohibited by order of a civil authority as the direct result of a Covered Loss to property in the immediate area of your 'Scheduled Premises'". The "Scheduled Premises" include all of Magna's places of business, including Pennsylvania, New York, Illinois and Florida.

56. As to business interruption losses, the Choice Policy defines “interruption” to mean “the slowdown or cessation of any part of your business activities or the partial or total untenability of the premises.”

57. The Choice Policy defines “Business Income” as

a. Net Income (Net Profit or Net Loss before income taxes), including Rental Income and Royalties, that would have been earned or incurred; and

b. Continuing normal operating expenses incurred, including Payroll Expenses...

c. For manufacturing businesses, Net Income also includes the net sales value of production.

58. Hartford also promised to pay “Extra Expense”, which the Choice Policy defines to mean “the actual, necessary and reasonable expenses you incur during the Period of Restoration that you would not have incurred if there had been no direct physical loss of or direct physical damage to property caused by or resulted from a Covered Loss at ‘Scheduled Premises’.”

59. In addition to losses of business income attributable to the interruption of Plaintiff’s own places of business, the Choice Policy provides coverage “for the actual loss of Business Income you sustain and the actual, necessary and reasonable Extra Expense you incur due to the necessary suspension of your operations during the Period of Coverage” because of the “direct physical loss of or direct physical damage to a Dependent Property[.]” The Choice Policy defines “Dependent Properties” to mean those “owned and operated by others that you depend on to:

(1) Deliver materials or services to you, or to others for your account (Contributing location); . . .

(2) Accept your products or services (Recipient Location);

(3) Manufacture products for delivery to your customers under contract of sale (Manufacturing Location); or

(4) Attract customers to your business premises (Leader Locations).

60. The Choice Policy includes additional coverage for losses caused by fungus, wet rot, dry rot, bacteria and viruses.

H. Plaintiff's Losses Due to the COVID-19 Pandemic and the Closure Orders.

61. Beginning on March 16, 2020, Plaintiff has been required by the Closure Orders to close its business at all locations and has ceased its normal business operations with customers. Plaintiff has accordingly suffered substantial Business Income, Contingent Business Income and Extra Expense losses that are increasing with each passing day.

62. The losses Plaintiff sustained are covered losses under the Choice Policy as they arose from direct physical loss of and/or direct physical damage to Plaintiff's properties and/or Dependent Properties and are covered losses under Civil Authority coverage within both the language and meaning of the Choice Policy and applicable law.

63. Following the issuance of the Closure Orders, Plaintiff submitted a claim to Hartford for business interruption coverage under the Choice Policy for losses insured as Business Income, Contingent Business Income and Extra Expense losses.

64. Hartford wrongfully denied Plaintiff's claim for coverage, indemnification and reimbursement in accordance with the terms of the Choice Policy on April 27, 2020. The April 27, 2020 Denial Letter is attached hereto as Exhibit 2.

65. In its denial, Hartford asserted that there has not been a "physical loss or damage at Plaintiff's insured premises." Hartford failed to define this term in the Choice Policy. Under applicable law, courts have held that "direct physical loss or direct physical damage" does not

require physical alteration to the premises and that the premises need only be unusable for a period of time because of an actual or the threat of a dangerous condition, such as the case here.

66. In the event that the Court finds that the phrase “physical loss or damage” is ambiguous, the phrase should be construed in favor of coverage and against Hartford as the author of the Choice Policy.

67. Excluding coverage as asserted by Hartford is moreover against public policy and contrary to applicable laws and regulations governing the insurance industry.

68. The exclusion of coverage is also contrary to the reasonable expectations of Plaintiff that the Policy would provide coverage for its losses.

69. Hartford also asserted that COVID-19 constitutes an excluded pollutant or contaminant. To the contrary, the plain language of the Policy does not include “virus” within the definition of “Pollutants and Contaminants”. The Choice Policy rather specifically provides coverage for viruses through Form PC 26 02 01 18.

CAUSES OF ACTION
COUNT I
DECLARATORY JUDGMENT
(Against Hartford)

70. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

71. Hartford accepted substantial premiums from Plaintiff in exchange for the promise to pay Plaintiff’s losses for claims covered under the Choice Policy, including those resulting from the loss of Business Income, Contingent Business Income and Extra Expense due to the interruption of Plaintiff’s business because of the Closure Orders and the actual and threatened spread of COVID-19.

72. Plaintiff has complied with all applicable provisions of the Choice Policy, including the payment of premiums and the notice requirements.

73. Plaintiff is owed payment under the Choice Policy for the losses incurred due to direct physical damage and direct physical loss caused by COVID-19 and the Closure Orders, as well as under the “‘Fungus’, Wet Rot, Dry Rot, Bacteria and Virus – Limited Coverage.”

74. Without any justification, Hartford has arbitrarily denied Plaintiff’s demand for payments under the provisions of the Choice Policy for the losses incurred by Plaintiff arising from the covered business losses related to the Closure Orders and the required interruption and closure of Plaintiff’s business because of the COVID-19 pandemic for which, Plaintiff had specifically obtained coverage.

75. An actual case or controversy exists regarding Plaintiff’s rights and Hartford’s obligations under the Choice Policy to reimburse Plaintiff for the full amount of losses incurred by Plaintiff arising from the covered business losses related to the Closure Orders and the required interruption and closure of Plaintiff’s business because of the COVID-19 pandemic.

76. Pursuant to 42 Pa. C.S. § 7532, Plaintiff seeks a declaratory judgment from this Court declaring:

- a. Plaintiff’s Business Income, Contingent Business Income and Extra Expenses losses incurred in connection with the interruption and closure of its business from March 16, 2020, to present are insured losses under the Choice Policy;
- b. Plaintiff’s Business Income, Contingent Business Income, and Extra Expense losses incurred in connection with the interruption and closure of its business on account of the Closure Orders are insured losses under the Choice Policy;

- c. Hartford is obligated to pay Plaintiff for the full amount of Plaintiff's Business Income, Contingent Business Income, and Extra Expense losses incurred and to be incurred in connection with covered losses related to the interruption and the closure of its business stemming from the COVID-19 pandemic and the Closure Orders.

COUNT II
BREACH OF CONTRACT
(Against Hartford)

77. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

78. Plaintiff's Choice Policy, attached as Exhibit 1, is an insurance contract under which Hartford was paid premiums in exchange for its promise to pay Plaintiff's losses for claims covered under the Choice Policy, such as Business Income, Contingent Business Income, and Extra Expense losses incurred as a result of the interruption and closure of Plaintiff's business because of the COVID-19 pandemic and the Closure Orders.

79. Plaintiff has complied with all applicable provisions of the Choice Policy, including the payment of premiums and the notice requirements.

80. By denying coverage for any Business Income, Contingent Business Income and Extra Expense losses incurred in connection with covered losses related to the interruption and the closure of its business stemming from the COVID-19 pandemic and the Closure Orders, Hartford has breached its coverage obligations under the Choice Policy.

81. As a direct and proximate result of Hartford's breach of the Choice Policy, Plaintiff has sustained and is continuing to sustain substantial insured damages for which Hartford is liable, in an amount in excess of \$50,000 and to be established at trial.

COUNT III
INJUNCTIVE RELIEF
(Against Hartford)

82. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

83. For the reasons set forth above, Hartford has violated the terms of the Choice Policy in denying coverage to Plaintiff for the loss of Business Income, Contingent Business Income and Extra Expense due to the interruption of Plaintiff's business because of the Closure Orders and the actual and threatened spread of COVID-19.

84. Pursuant to Pa. R. Civ. P. 1531, Plaintiff seeks injunctive relief from this Court:

- a. Enjoining and restraining Hartford's unlawful conduct as alleged herein, including the wrongful denial of coverage under Plaintiff's Policy; and
- b. For specific performance of the insurance policies.

85. In the alternative to Count II, Plaintiff also seeks pursuant to Pa. R. Civ. P. 1531, injunctive relief requiring Hartford to, in good faith, process any proofs of loss submitted or to be submitted by Plaintiff in accordance with Hartford's obligation to pay Plaintiff for the full amount of Plaintiff's Business Income, Contingent Business Income, and Extra Expense losses incurred and to be incurred in connection with covered losses related to the interruption and the closure of its business stemming from the COVID-19 pandemic and the Closure Orders.

COUNT IV
BREACH OF GOOD FAITH AND FAIR DEALING
(Against Hartford)

86. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

87. For the reasons set forth above, Hartford has violated the covenant of good faith and fair dealing under the Choice Policy, in reckless disregard of Plaintiff's rights.

88. As a direct and proximate result of Hartford's breach of good faith and fair dealing, Plaintiff has sustained and is continuing to sustain substantial insured damages for which Hartford is liable, in an amount in excess of \$50,000 and to be established at trial.

COUNT V
BAD FAITH
(Against Hartford)

89. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

90. At all times relevant and material hereto, Defendant Hartford was subject to 42 Pa.C.S.A. § 8371, Actions on Insurance Policies.

91. At all times relevant and material hereto, Defendant Hartford had a duty to act in good faith and with fair dealing toward Plaintiff, its insured.

92. At all times relevant and material hereto, Defendant Hartford acted in bad faith towards Plaintiff with respect to its claim for Business Income, Contingent Business Income and Extra Expense coverage under the Policy, in the following particular respects:

- a. Failing to adhere to its obligation to act in good faith in evaluating Plaintiff's claim for Business Income, Contingent Business Income, and Extra Expense

coverage for the losses Plaintiff incurred in connection with covered losses related to the interruption and the closure of its business stemming from the COVID-19 pandemic and the Closure Orders.

- b. Denying payment Plaintiff's Business Income, Contingent Business Income, and Extra Expense benefits claim without a reasonable basis to do so.
- c. Knowingly and/or recklessly disregarding its lack of a reasonable basis in evaluating and/or denying Plaintiff's Business Income, Contingent Business Income and Extra Expense claim.
- d. Misrepresenting the benefits, advantages, conditions or terms of any insurance policy.
- e. Misrepresenting pertinent facts or policy or contract provisions relating to coverage at issue.
- f. Compelling Plaintiff to institute litigation to recover amounts to under the Policy.

93. Defendant Hartford's actions as set forth above constitute a willful and/or reckless indifference and/or disregard to Plaintiff and accordingly, Hartford failed to comply with the mandates of 42 Pa.C.S.A. § 8371, its obligations to act in good faith and with fair dealing toward Plaintiff as its insurer, and applicable case law regarding the submission and evaluation of claims, and Hartford's acts and/or failures to act constitute bad faith.

94. As a direct and proximate result of Defendant Hartford's bad faith, Plaintiff has suffered Business Income, Contingent Business Income and Extra Expense losses, been forced to close the insured premises without Business Income and Extra Expense coverage for which

Plaintiff paid Hartford substantial premiums, and has incurred attorney's fees and legal expenses, all of which would have otherwise been avoided had Hartford not acted in bad faith.

COUNT VI
NEGLIGENCE
(Against Nottingham and Crook)

95. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

96. In the event that the fact finder determines that the Choice Policy does not cover Plaintiff's losses in full, this Count is pleaded in the alternative to Counts I to V and only against Defendants Nottingham and Crook.

97. Defendants Nottingham and Crook undertook a duty to exercise reasonable care and/or skill and knowledge normally possessed by insurance brokers in selecting, preparing and processing Plaintiff's policy application and in obtaining an insurance policy including Business Income, Contingent Business Income, Extra Expense and Civil Authority coverages.

98. Plaintiff requested and Nottingham and Crook undertook to secure as broad as possible Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverage.

99. Plaintiff had a reasonable expectation in purchasing the Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverage that such coverages would apply in the event that a civil authority issued an order effectively closing Plaintiff's business because of a public health emergency, such as the COVID-19 pandemic.

100. Defendants Nottingham and Crook breached their duties of care by their negligence and other acts and/or omissions including, but not limited to:

- a. Failing to ensure that the necessary and appropriate forms were completed to ensure the application for the requested as broad as possible insurance coverage as instructed by Plaintiff.
- b. Failing to exercise reasonable care in obtaining as broad as possible insurance policies to provide the requested coverage for Plaintiff.
- c. Failing to exercise reasonable care in obtaining insurance policies to provide as broad as possible Business Income, Contingent Business Income, Extra Expense and Civil Authority coverages for Plaintiff that would cover losses due to a public health emergency arising from a virus such as COVID-19.
- d. Failing to exercise reasonable care in obtaining insurance policies to provide as broad as possible Business Income, Contingent Business Income, and Extra Expense coverage to Plaintiff that would cover losses due to order of a civil authority relating to a public health emergency arising from a virus such as COVID-19.
- e. Failing to inform Plaintiff that the Choice Policy obtained did not have coverage which would provide as broad as possible Business Expense, Contingent Business Income, and Extra Income coverage applicable to Plaintiff's business operations in the event of a public health emergency arising from a virus such as COVID-19.
- f. Failing to inform Plaintiff that the Choice Policy obtained did not have coverage which would provide as broad as possible Business Expense, Contingent Business Expense, and Extra Income coverage applicable to Plaintiff's business operations

due to order of a civil authority relating to a public health emergency arising from a virus such as COVID-19.

101. As a direct and proximate result of Defendants' negligence, Plaintiff has sustained substantial damages for which Defendants Nottingham and Crook are liable, in an amount to be established at trial.

COUNT VII
NEGLIGENT SUPPLYING OF INFORMATION FOR THE GUIDANCE OF OTHERS
Restatement (Second) of Torts Section 552
(Against Nottingham and Crook)

102. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

103. In the event that the fact finder determines that the Choice Policy does not cover Plaintiff's losses in full, this Count is pleaded in the alternative to Counts I to V and only against Defendants Nottingham and Crook.

104. Defendants Nottingham and Crook, for their own pecuniary interest, negligently supplied incorrect and incomplete information to Plaintiff regarding the amounts and applicability of the Business Income, Contingent Business Income, Extra Expense, and Civil Authority coverage under the Choice Policy.

105. Defendants Nottingham and Crook made the recommendations for coverage with the intent that Plaintiff purchase the Choice Policy.

106. Plaintiff foreseeably and justifiably relied to its detriment on Defendants Nottingham and Crook's recommendations, expertise, and affiliations, and followed their advice, which, in fact, included material and negligent misrepresentations and/or omissions, and, as a result, its coverage with Hartford was, if the fact finder determines that the Choice Policy does

not cover Plaintiff's losses in full, insufficient to compensate Plaintiff for its Business Income, Contingent Business Income and Extra Expense losses resulting from the COVID-19 pandemic and the Closure Orders.

107. As a direct and proximate result of Defendants' negligent supplying of information, Plaintiff has sustained substantial damages for which Defendants Nottingham and Crook are liable, in an amount to be established at trial.

COUNT VIII
NEGLIGENT MISREPRESENTATION
(Against Nottingham and Crook)

108. Plaintiff incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

109. In the event that the fact finder determines that the Choice Policy does not cover Plaintiff's losses in full, this Count is pleaded in the alternative to Counts I to V and only against Defendants Nottingham and Crook.

110. Defendants Nottingham and Crook misrepresented and/or failed to present material facts to Plaintiff including, but not limited to, that Defendant Hartford would disclaim the coverage Plaintiff purchased for Civil Authority coverage, business interruption, and virus coverage. As a result, if the fact finder determines that the Choice Policy does not cover Plaintiff's losses in full, Plaintiff paid substantial premiums on illusory coverage.

111. Defendants Nottingham and Crook made the recommendations for coverage with the intent that Plaintiff purchase the Choice Policy.

112. Plaintiff foreseeably and justifiably relied to its detriment on Defendants Nottingham and Crook's recommendations, expertise, and affiliations, and followed their advice,

which, in fact, included material and negligent misrepresentations and/or omissions, and, as a result, its coverage with Hartford was, if the fact finder determines that the Choice Policy does not cover Plaintiff's losses in full, insufficient to compensate Plaintiff for its Business Income, Contingent Business Income and Extra Expense losses resulting from the COVID-19 pandemic and the Closure Orders.

113. As a direct and proximate result of Defendants' negligent misrepresentations and omissions, Plaintiff has sustained substantial damages for which Defendants Nottingham and Crook are liable, in an amount to be established at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. Enter a declaratory judgment on Count I of the Complaint in favor of Plaintiff and against Hartford, declaring as follows:
 - a. Plaintiff's losses incurred in connection with the Closure Orders and the required interruption of its business stemming from the COVID-19 pandemic are insured losses under the Choice Policy; and
 - b. Hartford is obligated to pay Plaintiff for the full amount of the losses incurred and to be incurred by Plaintiff due to the necessary interruption of its business stemming from the Closure Orders and/or the COVID-19 pandemic;
2. Enter judgment on Count II of the Complaint in favor of Plaintiff and against Hartford and award damages for breach of contract in an amount to be proven at trial;
3. Enter judgment on Count III of the Complaint in favor of Plaintiff for injunctive relief;

4. Enter judgment on Count IV of the Complaint in favor of Plaintiff and against Hartford and award damages for breach of good faith and fair dealing in an amount to be proven at trial;

5. Enter judgment on Count V of the Complaint in favor of Plaintiff and against Hartford and award damages in an amount to be proven at trial, punitive damages pursuant to 42 Pa. C.S.A. § 8371, plus interest, costs, reasonable attorneys' fees, said amount being in excess of \$50,000.00.

6. Enter judgment on Count VI, VII and VIII of the Complaint in favor of Plaintiff and against Defendants Nottingham and Crook, and award compensatory and other damages in an amount to be proven at trial;

7. Awarding Plaintiff attorneys' fees, interest, and costs; and

8. Awarding such other and further relief the Court deems just, proper and equitable.

COHEN, PLACITELLA & ROTH, P.C.

/s/ STEWART L. COHEN

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Dated: May 13, 2020

VERIFICATION

Robert Ackerman, hereby states that he is the Chairman of the Board of Directors of Magna Legal Services, LLC, the Plaintiff in the within action and verifies that the statements made in the foregoing COMPLAINT are true and correct to the best of his knowledge, information and belief, and that he understands that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to be the initials 'RA' followed by a stylized flourish.

ROBERT ACKERMAN

Dated May 11, 2020