

IN THE CIRCUIT COURT OF THE 13TH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

CASE NO.:

IGREENBUZZ LLC, D/B/A THE STONE SOUP
COMPANY

Plaintiff,

v.

WHITE PINE INSURANCE COMPANY,
Defendant.

_____ /

COMPLAINT

Plaintiff, IGREENBUZZ LLC, D/B/A THE STONE SOUP COMPANY, (hereinafter “Plaintiff”), by and through undersigned counsel, sues the Defendant, WHITE PINE INSURANCE COMPANY, (hereinafter “Defendant”), and alleges:

NATURE OF ACTION

This is an action for breach of contract, which arises out of the wrongful declination of coverage and refusal to pay by Defendant with respect to a commercial property insurance claim made by Plaintiff.

PARTIES, JURISDICTION, AND VENUE

1. This is an action for damages which does exceed \$30,000.00, exclusive of court costs, attorney’s fees, and interest, and therefore within the jurisdiction of this Court.

2. Defendant, is a Florida corporation that is authorized to engage in the business of insurance with Florida citizens, regularly conducts business in Hillsborough County, Florida and subject to jurisdiction of this Court, which at all times pertinent herein was the property insurer of Plaintiff for the property located at 1919 E 7th Avenue, Tampa, FL 33605, (hereinafter, the

“Property”) which Defendant issued Plaintiff a valid, binding, and enforceable policy of insurance bearing policy number WPCP011473, (hereinafter, the “Policy”), Defendant is in possession of a Certified Copy of the Policy. A request for the Policy has been made and a Certified Copy of the Policy will be filed with the Court upon receipt.¹

3. Plaintiff is of full age of majority and resident of Hillsborough, Florida and is the owner of real and personal property at the Property.

4. This Court has subject matter jurisdiction over these parties for the claims asserted herein, due to the causes of action arise within the jurisdiction of this court and therefore venue and jurisdiction are proper.

5. This Court has personal jurisdiction over Defendant because: (a) Defendant is operating, present, and/or doing business in Hillsborough County, Florida and (b) Defendant’s breaches of contract occurred within Hillsborough County, Florida.

6. Venue of this action is proper in this Court pursuant to Florida Statutes §§ 47.011, *et seq.*, as the causes of action alleged and all material events giving rise to this suit occurred within Hillsborough County, Florida.

GENERAL ALLEGATIONS TO ALL COUNTS

7. On or about March 17, 2020, Plaintiff suffered damage to his business, located at the Property, caused by a governmental suspension of business, including Plaintiff’s business, as a result of the COVID-19 pandemic (hereinafter, the “Loss”).

¹ Notwithstanding the requirements of Fla.R.Civ.P. 1.130(a) it is well-established under Florida Law (with analogous rulings made by every District Court of Appeals in the state) that, “where the complaint alleged that the defendant was a party to the contract and that the contract was not in the pleader’s possession. . .the pleader should be given an opportunity to establish the contract’s existence by discovery.” *Amiker v. Mid-Century Ins. Co.*, 398 So.2d 974, 975 (Fla. 1st DCA 1981). See also *Sachse v. Tampa Music Co.*, 262 So.2d 17, 19 (Fla. 2d DCA 1972); *Parkway General Hospital, Inc. v. Allstate Ins. Co.*, 393 So.2d 1171, 1172 (Fla. 3d DCA 1981); *Equity Premium Inc. v. Twin City Fire Ins. Co.*, 956 So.2d 1257, 1258 (Fla. 4th DCA 2007); *Seaboard Coast Line R. Co. v. Brummitt*, 390 So.2d 170, 171 (Fla. 5th DCA 1980).

8. On March 17, 2020, Governor Ron DeSantis issued Executive Order 20-68, which states, in relevant part, “Pursuant to section 252.36(5)(g), Florida Statutes, a restaurant shall immediately limit its occupancy to 50% of its current building occupancy.” Further, on March 20, 2020, Governor DeSantis issued Executive Order 20-71, which banned all on-premises food consumption for customers. On April 1, 2020, Governor DeSantis further ordered a state-wide “stay at home” order for an additional 30 days, which further suspended Plaintiff’s business.

9. Upon information and belief, the insurance Policy is an “all risk” policy that covers all direct physical losses to the Property that are not otherwise excluded and specifically provides coverage for loss of Business Income due to “necessary ‘suspension’ of your ‘operations’ during the ‘period of restoration’”. All applicable premiums were paid to Defendant and the Policy was in full force and effect on or about March 17, 2020. Government suspension of a business, as a result of a global pandemic is not specifically excluded under the Policy.

10. Following the subject incident, Plaintiff timely notified Defendant and/or its authorized agents of the Loss and Defendant responded by assigning claim number 129194 (hereinafter, the “Claim”).

11. The damages for the Loss and Claim as alleged herein arose as a direct and proximate result of an act of nature occurred on or about March 17, 2020.

12. Defendant has been afforded the opportunity to fully inspect the Loss, investigate the cause of the Loss, quantify the amount of the Loss, and did investigate the Loss and the Property.

13. Following the reporting of the Loss, Defendant advised Plaintiff that the Loss was not covered under the Policy.

14. To date, Defendant has refused and/or failed to pay the Plaintiff the current amount of insurance Policy benefits owed and necessary to put Plaintiff to its pre-loss condition, including but not limited to the amount of business income lost as a result of the government mandated suspension of Plaintiff's business.

15. Plaintiff has complied with all prerequisites, whether denominated conditions precedent, duties after loss, or otherwise, to receive benefits or proceeds under the above Policy, or maintain the instant suit for the breach of declaration of said 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 – BREACH OF CONTRACT

16. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 15 as if fully set forth herein and further states:

17. At all material times, Plaintiff was the insured under the Policy issued by Defendant, which is a binding, valid, and enforceable insurance contract under Florida law.

18. Plaintiff's Claim resulting from the incident that occurred on or about March 17, 2020, at the Property is covered under the Policy. None of the terms, provisions, conditions, or exclusions in the Policy applies to bar coverage. Government suspension of a business, as a result of a global pandemic is not specifically excluded under the Policy.

19. Upon information and belief, the Policy requires Defendant to pay for a Loss to property, including any loss of business income, covered under Section I unless otherwise excluded. Government suspension of a business, as a result of a global pandemic is not specifically excluded under the Policy. To date, Defendant has refused and/or failed to tender the insurance benefits necessary to compensate Plaintiff for the income lost caused by the Loss.

20. Defendant, through the acts of its agents, representatives, and/or employees, did not pay for Plaintiffs damages as a result of the Loss and failed to perform its duties and/or obligations under the Policy and thus breached the contract of insurance by its acts or omissions as alleged herein, including but without limitation to fully pay the amount due to Plaintiffs in accordance with the express terms of the Policy.

21. As a direct, proximate, and natural result of the Defendant's breach(es), Plaintiff suffered foreseeable damages, as Plaintiff has been deprived the insurance benefits due and owing under the Policy.

22. Further, due to Defendant's breach(es) and refusal to pay Plaintiff the full amount due and owing under the Policy, Plaintiff has been required to retain the services of the undersigned attorneys to represent and protect Plaintiff's interests. Thus, Plaintiff has become obligated to pay them a reasonable fee and costs for their services in bringing this action pursuant to Florida Statute § 627.428.

WHEREFORE, Plaintiff, IGREENBUZZ LLC, D/B/A THE STONE SOUP COMPANY, (hereinafter "Plaintiff"), demands judgment against the Defendant, WHITE PINE INSURANCE COMPANY, and respectfully requests that the Court enter an award of general compensatory damages, pre- and post-judgment interest, attorneys' fees pursuant to Fla. Stat. § 627.428 including a contingency fee multiplier, costs, and any further relief this Honorable Court deems equitable, just, and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all counts and on all issues so triable.

DESIGNATION OF E-MAIL ADDRESSES

Plaintiffs designate the following e-mail addresses for service of court documents in this action.

Kathryn Simpson, Esq.
E-Service Designation

Kathryn@pazoslawgroup.com
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Respectfully submitted,



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