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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

421 1ST AVENUE SOUTH, LLC d.b.a.
COWGIRLS, INC.

Plaintiff,

v.

GREAT LAKES INSURANCE SE, an
insurance company,

Defendant.

No.

COMPLAINT

I. INTRODUCTION

Plaintiff brings this action for business interruption insurance coverage. Plaintiff alleges as follows based on personal knowledge and information and belief:

II. JURISDICTION

1. This Court has original jurisdiction pursuant to RCW 2.08.010 because the actions originate in Washington and the amounts in controversy exceed the jurisdictional threshold.

2. This Court has personal jurisdiction over Defendant because Defendant registered to do business in Washington, has sufficient minimum contacts with Washington, and otherwise intentionally avails itself of the markets within Washington through its business

1 activities, such that the exercise of jurisdiction by this Court is proper pursuant to RCW
2 48.05.200. Moreover, Plaintiff's claims arise out of and directly relate to Defendant's contacts
3 with Washington.

4 3. This case is filed within two years of the onset of Plaintiff's loss, in accordance
5 with the contractual limitation on suit in Plaintiff's business interruption insurance policies.
6

7 4. A matter currently on direct review to the Washington Supreme Court, *Hill &*
8 *Stout PLLC v. Mutual of Enumclaw Insurance Co.*, No. 100211-4 (Wash. review granted Jan. 5,
9 2022), addresses similar insurance coverage arising from similar facts, similar case theories, and
10 virtually identical insuring language. In light of the pending *Hill & Stout* appeal, Plaintiff
11 contends this action should be stayed after filing and service until 60 days after the Washington
12 Supreme Court issues a decision in *Hill & Stout*.
13

14 III. PARTIES

15 5. 421 1st Ave. South, LLC d.b.a Cowgirls is insured by Defendant Great Lakes
16 Insurance SE under Policy # GLSP900671.

17 6. Defendant does business in King County, Washington, including selling
18 insurance policies in King County, Washington.

19 7. Defendant is vicariously liable for the acts and omissions of its respective
20 employees and agents.
21

22 IV. NATURE OF THE CASE

23 8. Defendant issued one or more insurance policies to Plaintiff, including a
24 businessowners policy and related endorsements (collectively, "the Policies"), which provide
25 broad property and business interruption coverage of Plaintiff's property and business at all
26 relevant times.

1 9. Defendant issued the Policies in Washington covering property situated in
2 Washington.

3 10. The Plaintiff's business property includes Plaintiff's business premises and
4 property and equipment owned and/or leased and used for Plaintiff's specific business activity.

5 11. Defendant promised to pay Plaintiff for loss of business income because of direct
6 physical loss or damage of property. The Policies do not define the key coverage terms.

7 12. In general, courts have found coverage under business interruption policies when
8 the policyholder has lost the functional use of their business property. This occurred to Plaintiff.

9 13. Plaintiff paid all premiums for the coverage when due.

10 14. Plaintiff seeks all coverage due under its policies, including without limitation
11 Business Income Coverage, Extra Expense Coverage, Extended Business Income Coverage, and
12 Civil Authority Coverage, to whatever extent provided.

13 15. On or about January 2020, the United States of America saw its first cases of
14 persons infected by COVID-19, which has been designated a worldwide pandemic.

15 16. It is now known that COVID-19 spreads through airborne transmission, and, in
16 some cases in conjunction with governmental responses, leads to loss of functional use of
17 business property for ordinary business purposes.

18 17. The first confirmed case of COVID-19 in King County, Washington was noted
19 on January 21, 2020.

20 18. On February 29, 2020, Washington Governor Jay Inslee issued Proclamation 20-
21 5, declaring a State of Emergency for all counties in the State of Washington as the result of
22 COVID-19.

1 19. Thereafter, Governor Inslee issued a series of certain proclamations and orders
2 affecting many persons and businesses in Washington, whether infected with COVID-19 or not,
3 requiring certain public health precautions. Among other things, Governor Inslee’s “Stay Home,
4 Stay Healthy” order required the closure of all non-essential businesses, including the Plaintiff’s
5 business here.

6
7 20. Issued March 12, 2020, Proclamation 20-08 closed all public and private K-12
8 schools in King, Pierce, and Snohomish counties. Issued March 13, 2020, Proclamation 20-09
9 extended the school closure to the entire state.

10 21. Issued March 16, 2020, Proclamation 20-13 closed theaters, gyms, performance
11 venues, dance studios, bowling alleys, and indoor dining at restaurants.

12 22. Proclamation 20-13 prohibited “any number of people from gathering in any
13 public venue in which people congregate for purposes of . . . fitness and other similar activities.”
14 The proclamation further prohibits “the operation of public venues in which people congregate
15 for entertainment, social or recreational purposes, including but not limited to . . . gyms, fitness
16 centers . . . and other similar venues.”

17 23. Proclamation 20-13 states that one of the reasons for its restrictions is that “the
18 worldwide COVID-19 pandemic and its progression in Washington State continues to threaten
19 the life and health of our people as well as the economy of Washington State, and remains a
20 public disaster affecting life, health, property, or the public peace.”

21 24. The various orders issued in Washington State in connection with the COVID-19
22 global pandemic led to Plaintiff experiencing a loss of functionality of its business property.

23 25. Proclamations 20-05 and 20-13 refer to property damage throughout the State of
24 Washington, including where Plaintiff’s business is located.
25
26

1 **VI. REQUEST FOR RELIEF**

2 1. A declaratory judgment that the Policies cover Plaintiff’s losses and expenses
3 resulting from the interruption of Plaintiff’s business related to COVID-19 and/or orders issued
4 by Governor Inslee, other Governors, and/or other authorities.

5 2. A declaratory judgment that Defendant is responsible for timely and fully paying
6 all such losses.

7 3. Damages.

8 4. Pre- and post-judgment interest at the highest allowable rate.

9 5. Attorney fees and costs under *Olympic Steamship Co. v. Centennial Insurance*
10 *Co.*, 117 Wn.2d 37, 51–53, 811 P.2d 673 (1991) and/or other applicable law.

11 6. Such further and other relief as the Court shall deem appropriate.
12
13

14
15 DATED this 10th day of March, 2022.

16 KELLER ROHRBACK L.L.P.

17 By s/Ian S. Birk

18 Ian S. Birk, WSBA #31431
19 Gabe Verdugo, WSBA #44154
20 Nathan Nanfelt, WSBA #45273
21 Amy Williams-Derry, WSBA #28711
22 1201 Third Avenue, Suite 3200
23 Seattle, WA 98101
24 Telephone: (206) 623-1900
25 Fax: (206) 623-3384
26 Email: ibirk@kellerrohrback.com
Email: gverdugo@kellerrohrback.com
Email: nnanfelt@kellerrohrback.com
Email: awilliams-derry@kellerrohrback.com

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CRANE DUNHAM PLLC

By s/Stephen J. Crane
Stephen J. Crane, WSBA #4932
3600 15th Ave. W, Suite 200
Seattle, WA 98119
Telephone: (206) 292-9090
Fax: (206) 292-9736
Email: scrane@cranedunham.com

Attorneys for Plaintiff