

STATE OF INDIANA            )           IN THE MARION COUNTY SUPERIOR COURT  
  )SS:  
COUNTY OF MARION        )           CAUSE NO.:

GEORGETOWN DENTAL, LLC,   )  
  )  
  Plaintiff                                     )  
  )  
  vs.    )  
  )  
THE CINCINNATI INSURANCE COMPANY and                                )  
THE CINCINNATI CASUALTY COMPANY,                                     )  
  )  
  Defendants.                                 )

**COMPLAINT FOR DAMAGES**

Comes now the Plaintiff, by counsel, and for it’s cause of action against the Defendant,  
alleges:

1.       At all times hereinafter mentioned Defendants’ principal place of business in the  
          State of Indiana was located in Indianapolis, Marion County, Indiana.
2.       At all times hereinafter mentioned Defendants insured Plaintiff, a dental office, under  
          a policy of insurance identified as Policy No. ECP 021 17 84. (See attached Exhibit  
          1, Insurance Policy)
3.       On February 24<sup>th</sup>, 2020 the United States Center for Disease Control and the  
          American Dental Association suggested postponing non-emergency or elective dental  
          procedures due to the presence of Covid-19 in the State of Indiana.

4. On March 6<sup>th</sup>, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-02 which declared a public health emergency in the State of Indiana and urged coordination of the entire healthcare infrastructure of Indiana to help prevent the spread of disease and to conserve and optimize the use of personal protection equipment.
5. On March 16<sup>th</sup>, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-04 requiring the postponement of non-essential elective and non-urgent surgical procedures at hospital and ambulatory surgery centers.
6. On March 23, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-08 calling for Indiana residents to “stay at home” and further urged dental offices to use good judgment to avoid potentially contributing to cause the spread of Covid-19.
7. On March 30<sup>th</sup>, 2020 Indiana Governor Eric Holcomb ordered dentists to cancel or postpone elective and non-urgent procedures in Executive Order 20-13.
8. Indiana Governor Eric Holcomb issued Executive Order 20-22 allowing dentists to resume providing services as of 11:59 p.m. on Sunday, April 26<sup>th</sup>, 2020.
9. Executive Order 20-22 was subject to reevaluation every seven days and encouraged businesses to comply with social distancing requirements.
10. On April 24<sup>th</sup>, 2020 Indiana Governor Eric Holcomb issued Executive Order 20-24 allowing the resumption of elective and non-urgent medical procedures, “so long as they have adopted policies and best practices that protect patients, physicians and staff against Covid-19 and also have sufficient quantities of PPE.”

11. Executive Order 20-24 urged healthcare providers to, “consult the best practices and recommendations developed by their respective medical associations or industries, many of which can be found online.”
12. As a result of the above guidelines and orders from the United States Center for Disease Control, American Dental Association and State of Indiana, Georgetown Dental was closed from March 12<sup>th</sup>, 2020 to May 11<sup>th</sup>, 2020 and has also experienced significant periods of partial closure.
13. During the period when Georgetown Dental, LLC was closed or partially closed due to Covid-19 restrictions, Plaintiff sustained a loss of income. Plaintiff has also incurred various expenses in connection with the property and dental practice due to the Covid-19 pandemic.
14. The insurance policy at issue contains a “Building and Personal Property Coverage Form” which states:

“We will pay for the direct ‘loss’ to Covered Property at the ‘premises’ caused by or resulting from any Covered Cause of Loss.” (FM 101 05 16 at p.3.)
15. Closure of Georgetown Dental, LLC due to the Covid-19 pandemic resulted in a loss of Plaintiff’s ability to use the covered property for the intended purpose of a dental practice and, therefore, Defendant is liable for Plaintiff’s resulting damages pursuant to the terms of the policy as a “covered cause of loss”.
16. The insurance policy at issue also contains “Business Income and Extra Expense” coverage. (FM 101 05 16 at pp.18-19, 21.)

17. The Business Income Expense and Extra Expense Coverage provides Defendants, “. . . will pay for the actual loss of ‘Business Income’ and ‘Rental Value’ you sustain due the necessary ‘suspension’ of your ‘operations’ during the ‘period of restoration’ . The ‘suspension’ must be caused by direct ‘loss’ to property at a ‘premises’ caused by or resulting from any Covered Cause of Loss.” (FM 101 05 16 at pp. 18-19, 21.)
18. The loss of business income and extra expenses incurred by Georgetown Dental, LLC due to closure caused by the Covid-19 pandemic is a covered loss under the Business Income and Extra Expense Coverage for which Defendant is liable.
19. There is a separate identical business income and extra expense coverage form elsewhere in the policy which further provides coverage to Georgetown Dental, LLC as a result of losses occasioned by the Covid-19 pandemic and the inability to use the premises for providing dental care. (FA 213 05 16 at 1-2.)
20. The insurance policy at issue also contains “Civil Authority” coverage which provides in relevant part, “. . . we will pay for the actual loss of ‘Business Income’ and necessary Extra Expense you sustain caused by action of civil authority that prohibits access to the ‘premises’ . . .” . (FM 101 05 16 at pp. 19-21.)
21. Additionally, the policy provides separate civil authority coverage provisions in the “Business Income and Extra Expense” coverage form providing substantially the same or similar coverage. (FA 213 05 16 at pp. 2-3.)
22. The closure of Georgetown Dental, LLC resulting from the recommendations and orders of various civil authorities is a covered cause of loss for which Defendant is liable under the insurance policy.

23. Plaintiff requests the Court interpret the insurance policy as outlined above and issue a declaratory judgment that the insurance policy at issue provides coverage for the damages sustained by Plaintiff during the closure of the dental office due to the Covid-19 pandemic.
24. Plaintiff further requests the Court determine the amount of damages sustained by Plaintiff and the amount of money owed to Plaintiff under the applicable insurance policy.

WHEREFORE, Plaintiff prays for a declaratory judgment against the Defendant as to the coverage issue and a further judgment against the Defendant in an amount which will fully and fairly compensate it for its injuries, damages, and losses, for the costs of this action, and for all other proper relief.

Respectfully submitted,

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