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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

AKIMOTO & ZHU, DDS, MSD, PLLC; BRET JACOBSON, DDS; CAROL O'BRIEN DDS PS, INC; DAVID Y. KIM, DDS; FOUAD FARHAT, DDS, MSD, PLLC; GRAHAM JONES, DDS; GREENE AND EVERETT, PLLC; JENSEN AND BROWN, DDS, PLLC.; JESSIE M. BANKS, DDS AND JESSIE M. BANKS, DDS PLLC; KUNAL WALIA, DDS; JEFFERY AND DAVIES DDS, PLLC; PATRICIA G. BENCA, DDS; PAUL R. SAUVAGE, DDS; THERON BAKER DDS; ROSETO & NGUYEN, PLLC; JOHANN YI DDS PLLC; JOSH WALKER, DDS & STEVEN INABA DDS, PLLC d.b.a. MERIDIAN DENTAL CLINIC; AMATO PLLC; MATTHEW A. BAGNULO, DDS, PS; SHAHRZAD SARRAM, DDS, MSD, PS; ZACHARY P. EHRMANTROUT, DDS; and RESTAURANTS NORTHWEST, INC.,

Plaintiffs,

v.

TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA, an insurance company; and THE CHARTER OAK FIRE INSURANCE COMPANY, an insurance company,

Defendants.

No.

COMPLAINT

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I. INTRODUCTION

Plaintiffs bring this action for business interruption insurance coverage. Plaintiffs allege 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 Defendants because Defendants registered to do business in Washington, have sufficient minimum contacts with Washington, and otherwise intentionally avails themselves of the markets within Washington through their business activities, such that the exercise of jurisdiction by this Court is proper pursuant to RCW 48.05.200. Moreover, Plaintiffs' claims arise out of and directly relate to Defendants' contacts with Washington.

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

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

1 **III. PARTIES**

2 5. Akimoto & Zhu, DDS, MSD, PLLC is insured by defendant Travelers Casualty
3 Insurance Company of America (“Travelers”) under Policy # 680-2F691703.

4 6. Bret Jacobson, DDS is insured by Travelers under Policy # 680-9122H807-20-
5 42.

6 7. Carol O’Brien DDS PS, Inc is insured by Travelers under Policy # 680-
7 0L879926-19-42.

8 8. David Y. Kim, DDS is insured by Travelers under Policy # 680-4B350485-19-42

9 9. Fouad Farhat, DDS, MSD, PLLC is insured by Travelers under Policy # 680-
10 2B369521-20-42.

11 10. Graham Jones, DDS is insured by Travelers under Policy # 680-4B983762-19-
12 42.

13 11. Greene and Everett, PLLC is insured by Travelers under Policy # 680-4J459134-
14 20-42.

15 12. Jensen and Brown, DDS, PLLC is insured by Travelers under Policy # 680-
16 9929P403-20-42.

17 13. Jessie M. Banks, DDS and Jessie M. Banks, DDS PLLC are insured by Travelers
18 under Policy # 680-3D91648A.

19 14. Kunal Walia, DDS is insured by Travelers under Policy # 680-5499N633.

20 15. Matt Jeffery, DDS and Chase Davies, DDS are insured by Travelers under Policy
21 # 680-3P183097.

22 16. Patricia G. Benca, DDS is insured by Travelers under Policy # 680-8774X269-
23 20-42.

- 1 17. Paul R. Sauvage, DDS is insured by Travelers under Policy # 680-8192R933.
- 2 18. Theron Baker DDS is insured by Travelers under Policy # 680-7A301857-19-42.
- 3 19. Roseto & Nguyen, PLLC are insured by Travelers under Policy # 680-
- 4 7944H579-20-42.
- 5 20. Johann Yi DDS PLLC is insured by Travelers under Policy # 680-417M0103-19-
- 6 42.
- 7 21. Josh Walker, DDS & Steven Inaba DDS, PLLC d.b.a. Meridian Dental Clinic, is
- 8 insured by Travelers under Policy # 680-2B00844A.
- 9 22. LeCuyer Amato PLLC is insured by Travelers under Policy # 680-5P085801-20-
- 10 42.
- 11 23. Matthew A. Bagnulo, DDS, PS is insured by Travelers under Policy # 680-
- 12 95B55977-20-42.
- 13 24. Shahrzad Sarram, DDS, MSD, PS is insured by Charter Oak under Policy # 680-
- 14 0296C850-19-42.
- 15 25. Zachary P. Ehrmantrout, DDS is insured by Charter Oak under Policy # 680-
- 16 8090C762.
- 17 26. Restaurants Northwest, Inc. is insured by Travelers Casualty Insurance Company
- 18 of America under Policy # 680-8D025401.
- 19 27. Travelers does business in King County, Washington, including selling insurance
- 20 policies in King County, Washington.
- 21 28. Charter Oak does business in King County, Washington, including selling
- 22 insurance policies in King County, Washington.
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1 38. On or about January 2020, the United States of America saw its first cases of
2 persons infected by COVID-19, which has been designated a worldwide pandemic.

3 39. It is now known that COVID-19 spreads through airborne transmission, and, in
4 some cases in conjunction with governmental responses, leads to loss of functional use of
5 business property for ordinary business purposes.
6

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

9 41. On February 29, 2020, Washington Governor Jay Inslee issued Proclamation 20-
10 5, declaring a State of Emergency for all counties in the State of Washington as the result of
11 COVID-19.

12 42. Thereafter, Governor Inslee issued a series of certain proclamations and orders
13 affecting many persons and businesses in Washington, whether infected with COVID-19 or not,
14 requiring certain public health precautions. Among other things, Governor Inslee’s “Stay Home,
15 Stay Healthy” order required the closure of all non-essential businesses, including each of the
16 Plaintiffs’ businesses here.
17

18 43. Issued March 12, 2020, Proclamation 20-08 closed all public and private K-12
19 schools in King, Pierce, and Snohomish counties. Issued March 13, 2020, Proclamation 20-09
20 extended the school closure to the entire state.
21

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

24 45. Proclamation 20-13 prohibited “any number of people from gathering in any
25 public venue in which people congregate for purposes of . . . fitness and other similar activities.”
26 The proclamation further prohibits “the operation of public venues in which people congregate

1 for entertainment, social or recreational purposes, including but not limited to . . . gyms, fitness
2 centers . . . and other similar venues.”

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

7 47. The various orders issued in Washington State in connection with the COVID-19
8 global pandemic led to Plaintiffs’ experiencing a loss of functionality of their business property.

9 48. Proclamations 20-05 and 20-13 refer to property damage throughout the State of
10 Washington, including where Plaintiffs’ businesses are located.

11 49. Other premises, schools, and businesses in immediate close proximity to each
12 Plaintiff were closed and suffered direct physical loss as a result of these and similar
13 governmental orders.

14 50. As a result of the above, Plaintiffs have experienced and will experience losses
15 covered by the Policies.

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18 **V. CAUSES OF ACTION**

19 **Count One—Declaratory Judgment**

20 51. This is a cause of action for declaratory judgment pursuant to the Uniform
21 Declaratory Judgments Act, RCW 7.24.010 *et seq.*

22 52. Plaintiffs seek a declaratory judgment declaring that losses and expenses
23 resulting from the interruption of their businesses are covered by the Policies Defendants issued
24 to them.
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1 DATED this 11th day of March, 2022.

2 KELLER ROHRBACK L.L.P.

3
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