

# 2020-19538 / Court: 113

CAUSE NO. \_\_\_\_\_

BARBARA LANE SNOWDEN DBA	§	IN THE DISTRICT COURT
HAIR GOALS CLUB	§	
	§	
V.	§	_____ JUDICIAL DISTRICT
	§	
TWIN CITY FIRE INSURANCE COMPANY	§	HARRIS COUNTY, TEXAS

## **PLAINTIFF’S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, BARBARA LANE SNOWDEN DBA HAIR GOALS CLUB., and files this Original Petition against TWIN CITY FIRE INSURANCE COMPANY, a Hartford Company, (“Hartford”) and in support thereof, would show as follows:

### **I.** **DISCOVERY CONTROL PLAN LEVEL**

Plaintiff intends for discovery to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure. This case involves complex issues and will require extensive discovery. Therefore, Plaintiff will ask the Court to order that discovery be conducted in accordance with a discovery control plan tailored to the particular circumstances of this suit.

### **II.** **PARTIES AND SERVICE**

Plaintiff is doing business in Harris County, Texas.

Hartford is in the business of insurance in the State of Texas. The insurance business done by Hartford in Texas includes, but is not limited to, the following:

- The making and issuing of contracts of insurance with the Plaintiff;
- The taking or receiving of application for insurance, including the Plaintiff’s application for insurance;

- The receiving or collection of premiums, commissions, membership fees, assessments, dues or other consideration for any insurance or any part thereof, including any such consideration or payments from the Plaintiff; and
- The issuance or delivery of contracts of insurance to residents of this state or a person authorized to do business in this state, including the Plaintiff.

Defendant **Twin City Fire Insurance Company** can be served at through its registered agent at the following address: CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. **Service is requested at this time.**

### **III.** **JURISDICTION AND VENUE**

Venue is appropriate in Harris County, Texas because all or part of the conduct giving rise to the causes of action were committed in Harris County, Texas and Plaintiff and Property which is the subject of this suit are located in Harris County, Texas. Accordingly, venue is proper pursuant to Texas Civil Practice & Remedies Code §15.002.

### **IV.** **BACKGROUND FACTS**

Plaintiff is the owner of an Insurance Policy (hereinafter referred to as "the Policy"). Plaintiff owns the insured property, which is located at 307 E. Main Street, Humble, Texas 77338 (hereinafter referred to as "the Property"). Hartford sold the Policy insuring the Property to Plaintiff.

During the terms of said Policy, Plaintiff has sustained and will sustain covered losses during the Covid-19 outbreak and subsequent Harris County Order, attached hereto as Exhibit A, and Plaintiff reported same to Hartford pursuant to the terms of the Policy. Plaintiff asked that Hartford cover the cost for business interruption to the Property pursuant to the Policy. Hartford assigned Mindy Canter to adjust the claim and investigate the loss related to business

interruption. The claim has been wrongfully denied. To date, Hartford has mishandled Plaintiff's claim and caused and will continue to cause Plaintiff further and additional damages.

Hartford made material misrepresentations about Policy provisions, coverage and the law in Texas applying thereto. Hartford and its agents have kept and have in their possession a claim file which details the Plaintiff's claim and its investigation, adjustment and subsequent denial of the claim.

Hartford wrongfully denied Plaintiff's claim for business interruption even though the Policy provides coverage for losses such as those suffered by Plaintiff. Furthermore, Hartford engaged its agents to misrepresent Policy provisions and coverage. To date, Hartford continues to deny the payment for Plaintiff's loss of business.

**V.**  
**CAUSES OF ACTION**

**A. BREACH OF CONTRACT**

Plaintiff re-alleges the foregoing paragraphs. Hartford and its agents' conduct constitutes a breach of the insurance contract between it and Plaintiff. Hartford's failure and/or refusal, as described above, to pay Plaintiff adequate compensation as it is obligated to do under the terms of the Policy in question, and under the laws of the State of Texas, constitutes a breach of the insurance contract with Plaintiff.

Hartford failed to perform its contractual duty to adequately compensate Plaintiff under the terms of the Policy. Specifically, Hartford wrongfully denied coverage and refused to offer the full proceeds of the Policy, although due demand was made for proceeds to be paid in an amount sufficient to cover Plaintiff's business loss, and all conditions precedent to recovery under the Policy have been carried out and accomplished by Plaintiff. Hartford's conduct constitutes a breach of the insurance contract between it and Plaintiff.

**B. NONCOMPLIANCE WITH TEXAS INSURANCE CODE**

**1. UNFAIR SETTLEMENT PRACTICES**

Plaintiff re-alleges the foregoing paragraphs. Texas law is clear that insurance companies and anyone engaged in the business of insurance by investigating and adjusting a claim must conduct a reasonable, full and fair claim investigation. Hartford violated Chapter 541 of the Texas Insurance Code, in one or more of the following particulars:

**§ 541.061. Misrepresentation of Insurance Policy.**

- Making an untrue statement of material fact;
- Failing to state a material fact necessary to make other statements made not misleading;
- Making a misleading statement; and
- Failing to disclose a material matter of law.

**2. THE PROMPT PAYMENT OF CLAIMS**

Plaintiff re-alleges the foregoing paragraphs. Hartford's conduct constitutes and will continue to constitute multiple violations of the Texas Insurance Code, Prompt Payment of Claims. All violations made under this article are made actionable by TEX. INS. CODE §542.060.

Hartford failed and will fail to timely pay Plaintiff's claim, and for all of the covered losses due to its wrongful denial of the policy benefits. TEX. INS. CODE §542.057.

Hartford failed and will fail to meet its obligations under the Texas Insurance Code regarding payment of claims without delay due to its wrongful denial. Its conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE §542.058.

Because of Hartford's wrongful acts and omissions, Plaintiff was forced to retain the professional services of the attorney and law firm who is representing it with respect to these causes of action.

**C. BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**

Plaintiff re-alleges the foregoing paragraphs. Hartford's conduct constitutes a breach of the common law duty of good faith and fair dealing owed to the insureds pursuant to insurance contracts.

From and after the time Plaintiff's loss was presented to Hartford, its liability to pay the full claim in accordance with the terms of the Policy was reasonably clear. However, it has refused to pay Plaintiff in full and wrongfully denied the claim, despite there being no basis upon which a reasonable insurance company would have relied to deny the full payment. Hartford's conduct constitutes a breach of the common law duty of good faith and fair dealing.

Further, Hartford's failure, as described above, to adequately and reasonably investigate and evaluate Plaintiff's claims, although, at that time, it knew or should have known by the exercise of reasonable diligence that its liability was reasonably clear, constitutes a breach of the duty of good faith and fair dealing.

**VI.  
KNOWLEDGE**

Each of the acts described above, together and singularly, was done "knowingly" by Defendant as that term is used in the Texas Insurance Code and was a producing cause of Plaintiff's damages described herein.

**VII.  
DAMAGES**

Plaintiff would show that all of the aforementioned acts, taken together or singularly, constitute the proximate and producing causes of the damages sustained by Plaintiff.

For breach of contract, Plaintiff is entitled to regain the benefit of the bargain, which is the amount of the claim, together with attorney's fees.

For noncompliance with the Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include the loss of the benefits that should have been paid pursuant to the Policy but for the wrongful denial, court costs, consequential damages not covered by Plaintiff's Policy and attorney's fees. For knowing conduct of the acts described above, Plaintiff asks for three times the actual damages. TEX. INS. CODE §541.152.

For noncompliance with the Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of the claim, as well as eighteen (18) percent interest per annum on the amount of such claim as damages, together with attorney's fees. TEX. INS. CODE §542.060.

For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from the insurer's breach of duty, such as additional costs, economic hardship, losses due to nonpayment of the amount the insurer owed, and exemplary damages.

For the prosecution and collection of this claim, Plaintiff has been compelled to engage the services of the attorney whose name is subscribed to this pleading. Therefore, Plaintiff is entitled to recover a sum for the reasonable and necessary services of Plaintiff's attorney in the preparation and trial of this action, including any appeals to the Court of Appeals and/or the Supreme Court of Texas.

### VIII.

In addition, as to any exclusion, condition, or defense pled by Defendant, Plaintiff would show that:

The clear and unambiguous language of the policy provides coverage for business interruption and other losses to the Property caused by losses made the basis of Plaintiff's claims;

In the alternative, any other construction of the language of the policy is void as against public policy;

Any other construction and its use by the Defendant violate the Texas Insurance Code section 541 et. seq. and is void as against public policy;

Any other construction is otherwise void as against public policy, illegal, and violates state law and administrative rule and regulation.

In the alternative, should the Court find any ambiguity in the policy, the rules of construction of such policies mandate the construction and interpretation urged by Plaintiff;

In the alternative, Defendant is judicially, administratively, or equitably estopped from denying Plaintiff's construction of the policy coverage at issue;

In the alternative, to the extent that the wording of such policy does not reflect the true intent of all parties thereto, Plaintiff pleads the doctrine of mutual mistake requiring reformation.

**IX.  
REQUEST FOR DISCLOSURES**

Pursuant to the Texas Rules of Civil Procedure 194, Plaintiff requests that Defendant provide the information required in a Request for Disclosure.

**X.  
FIRST REQUEST FOR PRODUCTION TO HARTFORD**

- 1) Produce the non-privileged portion of Hartford's complete claim files for Plaintiff's Property relating to or arising out of any damages caused by the losses determined by Defendant's expert and Plaintiff's for which Hartford opened claims under the Policy.
- 2) Produce all emails and other forms of communication between Hartford, its agents, adjusters, employees, or representatives and the adjuster, and/or his agents, adjusters, representatives or employees relating to, mentioning, concerning or evidencing the Plaintiff's Property which are the subject of this suit.

**XI.**

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendant be cited to appear and answer herein; that, on final hearing, Plaintiff have judgment against Defendant for an amount, deemed to be just and fair by the jury, which will be a sum within the jurisdictional limits of this Court. FOR THE COURT: Plaintiff is forced to state a range amount of damages sought although Plaintiff believes that the amount of damages is solely for the jury to determine. However, because Plaintiff must state a range of damages, Plaintiff pleads that the damages will be less than \$75,000. See attached Exhibit B. Plaintiff further pleads for costs of suit; for interest on the judgment; for pre-judgment interest; and, for such other and further relief, in law or in equity, either general or special, including the non-monetary relief of declaratory judgment against Defendant, to which Plaintiff may be justly entitled.

Respectfully submitted,

THE LOYD LAW FIRM, P.L.L.C.  
12703 Spectrum Drive, Suite 201  
San Antonio, Texas 78249  
Telephone: (210) 775-1424  
Facsimile: (210) 775-1410  
Electronic Mail: [shannon@theloydlawfirm.com](mailto:shannon@theloydlawfirm.com)

BY: \_\_\_\_\_



SHANNON E. LOYD  
State Bar No. 24045706

ATTORNEY FOR PLAINTIFF

**PLAINTIFF REQUESTS A TRIAL BY JURY**