

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

ARNELL PRATO, DDS, PLLC., individually
and on behalf of all others similarly situated,

Plaintiff,

v.

SENTINEL INSURANCE COMPANY,
LIMITED

Defendant.

No.

COMPLAINT—CLASS ACTION

JURY DEMAND

I. INTRODUCTION

Plaintiff, ARNELL PRATO, DDS, PLLC (“Prato”), individually and on behalf of all other similarly situated members of the defined national class (the “Class Members”), by and through the undersigned attorneys, brings this class action against Defendant Sentinel Insurance Company, Limited (“Sentinel or “Defendant”) and alleges as follows based on personal knowledge and information and belief:

II. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because at least one Class member is of diverse citizenship

1 from Defendant, there are 100 or more Class members nationwide, and the aggregate amount in
2 controversy exceeds \$5,000,000. The Court has supplemental jurisdiction over Plaintiff's state
3 law claims under 28 U.S.C. § 1367.

4 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(3) because the
5 Court has personal jurisdiction over Defendant, a substantial portion the alleged wrongdoing
6 occurred in this District and the state of Washington, and Defendant has sufficient contacts with
7 this District and the state of Washington.
8

9 3. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.
10 § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims at
11 issue in this Complaint arose in this District. Plaintiff's businesses are located in Tacoma, Pierce
12 County. This action is therefore appropriately filed in the Tacoma Division because a substantial
13 portion of the events giving rise to this lawsuit arose in Pierce County.
14

15 III. PARTIES

16 4. Plaintiff, Arnell Prato, DDS, PLLC., is a dental business with locations at 7808
17 Pacific Avenue, Suite 5, Tacoma, WA 98408 and 4125 9th Ave NE, Suite D, Tacoma, WA
18 98422.

19 5. Defendant Sentinel Insurance Company, Limited is an insurance carrier
20 incorporated and domiciled in Connecticut, with its principal place of business in Hartford
21 Connecticut.
22

23 IV. NATURE OF THE CASE

24 6. Due to COVID-19 and a state-ordered mandated closure, Plaintiff cannot provide
25 dental services. Plaintiff intended to rely on its business insurance to keep its business as a going
26

1 concern. This lawsuit is filed to ensure that Plaintiff and other similarly-situated policyholders
2 receive the insurance benefits to which they are entitled and for which they paid.

3 7. Defendant Sentinel issued one or more insurance policies to Plaintiff, including
4 Spectrum Business Owners Policy and related endorsements, insuring Plaintiff's property and
5 business practice and other coverages, with effective dates of July 30, 2019 to July 30, 2020.

6 8. Plaintiff's business property includes property owned and/or leased by Plaintiff
7 and used for general business purposes for the specific purpose of dental and other business-
8 related activities.
9

10 9. Defendant Sentinel's insurance policy issued to Plaintiff promises to pay Plaintiff
11 for "direct physical loss of or physical damage to" covered property.

12 10. Defendant Sentinel's insurance policy issued to Plaintiff includes Business
13 Income Coverage, Extra Expense Coverage, Extended Business Income Coverage and Civil
14 Authority Coverage.
15

16 11. Plaintiff paid all premiums for the coverage when due.

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

19 13. In light of this pandemic, Washington Governor Jay Inslee issued certain
20 proclamations and orders affecting many persons and businesses in Washington, whether
21 infected with COVID-19 or not, requiring certain public health precautions. Among other
22 things, Governor Inslee's "Stay Home, Stay Healthy" order required the closure of all non-
23 essential businesses, including Plaintiff's business.
24

25 14. By order of Governor Inslee, dentists including Plaintiff were prohibited from
26 practicing dental services but for urgent and emergency procedures.

1 15. Governor Inslee's "PROCLAMATION BY THE GOVERNOR AMENDING
2 PROCLAMATION 20-05: 20-24 Restrictions on Non Urgent Medical Procedures," dated
3 March 19, 2020, also provides, in part:

4 WHEREAS, the health care person protective equipment supply chain in
5 Washington State has been severely disrupted by the significant increased use of
6 such equipment worldwide, such that there are now critical shortages of this
7 equipment for health care workers. To curtail the spread of the COVID-19
8 pandemic in Washington State and to protect our health care workers as they
9 provide health care services, it is necessary to immediately prohibit all hospitals,
ambulatory surgery centers, and dental orthodontic, and endodontic offices in
Washington State from providing health care services, procedures and surgeries
that require personal protective equipment, which if delayed, are not anticipated
to cause harm to the patient within the next three months.

10 16. No COVID-19 virus has been detected on Plaintiff's business premises.

11 17. Plaintiff's property has sustained direct physical loss and/or damage related to
12 COVID-19 and/or the proclamations and orders.

13 18. Plaintiff's property will continue to sustain direct physical loss or damage
14 covered by the Sentinel policy or policies, including but not limited to business interruption,
15 extra expense, interruption by civil authority, and other expenses.

16 19. Plaintiff's property cannot be used for its intended purposes.

17 20. As a result of the above, Plaintiff has experienced and will experience loss
18 covered by the Sentinel policy or policies.

19 21. Upon information and belief, Sentinel has denied or will deny all similar claims
20 for coverage.

21 V. CLASS ACTION ALLEGATIONS

22 22. This matter is brought by Plaintiff on behalf of itself and those similarly situated,
23 under Federal Rules of Civil Procedure 23(b)(1), 23(b)(2), and 23(b)(3).

24 23. The Classes that Plaintiff seeks to represent are defined as:

1 A. ***Business Income Breach of Contract Class:*** All persons and entities in
2 the United States insured under a Sentinel policy with Business Income Coverage who
3 suffered a suspension of their practice at the covered premises related to COVID-19
4 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities
5 and whose Business Income claim has been denied by Sentinel.

6 B. ***Business Income Coverage Breach of Contract Washington Subclass:***
7 All persons and entities in the State of Washington insured under a Sentinel policy with
8 Business Income Coverage who suffered a suspension of their business at the covered
9 premises related to COVID-19 and/or orders issued by Governor Inslee, and/or other
10 civil authorities and whose Business Income claim has been denied by Sentinel.

11 C. ***Business Income Declaratory Relief Class:*** All persons and entities in
12 the United States insured under a Sentinel policy with Business Income Coverage who
13 suffered a suspension of their practice at the covered premises related to COVID-19
14 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities.

15 D. ***Business Income Coverage Declaratory Relief Washington Subclass:***
16 All persons and entities in the State of Washington insured under a Sentinel policy with
17 Business Income Coverage who suffered a suspension of their business at the covered
18 premises related to COVID-19 and/or orders issued by Governor Inslee, and/or other
19 civil authorities.

20 E. ***Extended Business Income Breach of Contract Class:*** All persons and
21 entities in the United States insured under a Sentinel policy with Extended Business
22 Income Coverage who suffered a suspension of their business at the covered premises
23 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
24
25
26

1 other civil authorities and whose Extended Business Income claim has been denied by
2 Sentinel.

3 F. ***Extended Business Income Breach of Contract Washington Subclass:***

4 All persons and entities in the State of Washington insured under a Sentinel policy with
5 Extended Business Income coverage who suffered a suspension of their business at the
6 covered premises related to COVID-19 and/or orders issued by Governor Inslee, and/or
7 other civil authorities and whose Extended Business Income claim has been denied by
8 Sentinel.
9

10 G. ***Extended Business Income Declaratory Relief Class:*** All persons and

11 entities in the United States insured under a Sentinel policy with Extended Business
12 Income Coverage who suffered a suspension of their business at the covered premises
13 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
14 other civil authorities.
15

16 H. ***Extended Business Income Declaratory Relief Washington Subclass:***

17 All persons and entities in the State of Washington insured under a Sentinel policy with
18 Extended Business Income coverage who suffered a suspension of their business at the
19 covered premises related to COVID-19 and/or orders issued by Governor Inslee, and/or
20 other civil authorities.
21

22 I. ***Extra Expense Breach of Contract Class:*** All persons and entities in the

23 United States insured under a Sentinel policy with Extra Expense Coverage who sought
24 to minimize losses from the suspension of their business at the covered premises in
25 connection with COVID-19 and/or orders issued by Governor Inslee, other Governors,
26

1 and/or other civil authorities and whose Extra Expense claim has been denied by
2 Sentinel.

3 J. ***Extra Expense Breach of Contract Washington Subclass:*** All persons
4 and entities in the State of Washington insured under a Sentinel policy with Extra
5 Expense coverage who sought to minimize losses from the suspension of their business
6 at the covered premises in connection with COVID-19 and/or orders issued by Governor
7 Inslee, and/or other civil authorities and whose Extra Expense claim has been denied by
8 Sentinel.
9

10 K. ***Extra Expense Declaratory Relief Class:*** All persons and entities in the
11 United States insured under a Sentinel policy with Extra Expense Coverage who sought
12 to minimize losses from the suspension of their business at the covered premises in
13 connection with COVID-19 and/or orders issued by Governor Inslee, other Governors,
14 and/or other civil authorities.
15

16 L. ***Extra Expense Declaratory Relief Washington Subclass:*** All persons
17 and entities in the State of Washington insured under a Sentinel policy with Extra
18 Expense coverage who sought to minimize losses from the suspension of their business
19 at the covered premises in connection with COVID-19 and/or orders issued by Governor
20 Inslee, and/or other civil authorities.

21 M. ***Civil Authority Breach of Contract Class:*** All persons and entities in the
22 United States insured under a Sentinel policy with Civil Authority Coverage who
23 suffered a suspension of their practice and/or extra expense at the covered premises
24 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
25 other civil authorities and whose Civil Authority claim has been denied by Sentinel.
26

1 N. ***Civil Authority Breach of Contract Washington Subclass:*** All persons
 2 and entities in the State of Washington insured under a Sentinel policy with Civil
 3 Authority coverage who suffered a suspension of their practice and/or extra expense at
 4 the covered premises related to COVID-19 and/or orders issued by Governor Inslee,
 5 and/or other civil authorities and whose Civil Authority claim has been denied by
 6 Sentinel.

7 O. ***Civil Authority Declaratory Relief Class:*** All persons and entities in the
 8 United States insured under a Sentinel policy with Civil Authority Coverage who
 9 suffered a suspension of their practice at the covered premises related to COVID-19
 10 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities.

11 P. ***Civil Authority Declaratory Relief Washington Subclass:*** All persons
 12 and entities in the State of Washington insured under a Sentinel policy with Civil
 13 Authority coverage who suffered a suspension of their practice at the covered premises
 14 related to COVID-19 and/or orders issued by Governor Inslee, and/or other civil
 15 authorities.
 16
 17

18 24. Excluded from the Classes are Defendant's officers, directors, and employees;
 19 the judicial officers and associated court staff assigned to this case; and the immediate family
 20 members of such officers and staff. Plaintiff reserves the right to amend the Class definitions
 21 based on information obtained in discovery.

22 25. This action may properly be maintained on behalf of each proposed Class under
 23 the criteria of Rule 23 of the Federal Rules of Civil Procedure.

24 26. **Numerosity:** The members of the Class are so numerous that joinder of all
 25 members would be impractical. Plaintiff is informed and believes that the proposed Class
 26

1 contains thousands of members. The precise number of class members can be ascertained
2 through discovery, which will include Defendant's records of policyholders.

3 27. **Commonality and Predominance:** Common questions of law and fact
4 predominate over any questions affecting only individual members of the Class. Common
5 questions include, but are not limited to, the following:

6 A. Whether the class members suffered covered losses based on common
7 policies issued to members of the Class;

8 B. Whether Sentinel acted in a manner common to the class and wrongfully
9 denied claims for coverage relating to COVID-19 and/or orders issued by Governor
10 Inslee, other Governors, and/or other civil authorities;

11 C. Whether Business Income Coverage in Sentinel's policies of insurance
12 applies to a suspension of practice relating to COVID-19 and/or orders issued by
13 Governor Inslee, other Governors, and/or other civil authorities;

14 D. Whether Extended Business Income Coverage in Sentinel's policies of
15 insurance applies to a suspension of practice relating to COVID-19 and/or orders issued
16 by Governor Inslee, other Governors, and/or other civil authorities;

17 E. Whether Extra Expense Coverage in Sentinel's policies of insurance
18 applies to efforts to minimize a loss at the covered premises relating to COVID-19
19 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities;

20 F. Whether Civil Authority Coverage in Sentinel's policies of insurance
21 applies to a suspension of practice relating to COVID-19 and/or orders issued by
22 Governor Inslee, other Governors, and/or civil authorities;

1 G. Whether Sentinel has breached its contracts of insurance through a
 2 blanket denial of all claims based on business interruption, income loss or closures
 3 related to COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or
 4 other civil authorities;

5 H. Whether, because of Defendant's conduct, Plaintiff and the class
 6 members have suffered damages; and if so, the appropriate amount thereof; and

7 I. Whether, because of Defendant's conduct, Plaintiff and the class
 8 members are entitled to equitable and declaratory relief, and if so, the nature of such
 9 relief.

10 28. **Typicality:** Plaintiff's claims are typical of the claims of the members of the
 11 classes. Plaintiff and all the members of the classes have been injured by the same wrongful
 12 practices of Defendant. Plaintiff's claims arise from the same practices and course of conduct
 13 that give rise to the claims of the members of the Class and are based on the same legal theories.

14 29. **Adequacy:** Plaintiff will fully and adequately assert and protect the interests of
 15 the classes and has retained class counsel who are experienced and qualified in prosecuting class
 16 actions. Neither Plaintiff nor its attorneys have any interests contrary to or in conflict with the
 17 Class.

18 30. **Federal Rule of Civil Procedure 23(b)(1), the Risk of Inconsistent or**
 19 **Varying Adjudications and Impairment to Other Class Members' Interests:** Plaintiff seeks
 20 adjudication as to the interpretation, and resultant scope, of Defendant's policies, which are
 21 common to all members of the class. The prosecution of separate actions by individual members
 22 of the classes would risk inconsistent or varying interpretations of those policy terms and create
 23 of the classes would risk inconsistent or varying interpretations of those policy terms and create
 24 of the classes would risk inconsistent or varying interpretations of those policy terms and create
 25 of the classes would risk inconsistent or varying interpretations of those policy terms and create
 26 of the classes would risk inconsistent or varying interpretations of those policy terms and create

inconsistent standards of conduct for Defendant. The policy interpretations sought by Plaintiff could also impair the ability of absent class members to protect their interests.

31. **Federal Rule of Civil Procedure 23(b)(2), Declaratory and Injunctive Relief:** Defendant acted or refused to act on grounds generally applicable to Plaintiff and other members of the proposed classes making injunctive relief and declaratory relief appropriate on a classwide basis.

32. **Federal Rule of Civil Procedure 23(b)(3), Superiority:** A class action is superior to all other available methods of the fair and efficient adjudication of this lawsuit. While the aggregate damages sustained by the classes are likely to be in the millions of dollars, the individual damages incurred by each class member may be too small to warrant the expense of individual suits. Individual litigation creates a risk of inconsistent and/or contradictory decisions and the court system would be unduly burdened by individual litigation of such cases. A class action would result in a unified adjudication, with the benefits of economies of scale and supervision by a single court.

VI. CAUSES OF ACTION

Count One—Declaratory Judgment

(Brought on behalf of the Business Income Coverage Declaratory Relief Class, Business Income Coverage Declaratory Relief Washington Subclass, Extended Business Income Declaratory Relief Class, Extended Business Income Declaratory Relief Washington Subclass, Extra Expense Declaratory Relief Class, Extra Expense Declaratory Relief Washington Subclass, Civil Authority Declaratory Relief Class, and Civil Authority Declaratory Relief Washington Subclass)

33. Previous paragraphs alleged are incorporated herein.

34. This is a cause of action for declaratory judgment pursuant to the Declaratory Judgment Act, codified at 28 U.S.C. § 2201.

36. Plaintiff Prato seeks a declaratory judgment declaring that Plaintiff Prato and class members' losses and expenses resulting from the interruption of their business are covered by the Policy.

Count Two—Breach of Contract

38. Previous paragraphs alleged are incorporated herein.

COMPLAINT—CLASS ACTION - 12

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1 40. The Policy is a contract under which Plaintiff Prato and the class paid premiums
2 to Sentinel in exchange for Sentinel's promise to pay plaintiff and the class for all claims
3 covered by the Policy.

4 41. Plaintiff Prato has paid its insurance premiums.

5 42. Plaintiff submitted a claim to Sentinel for the direct physical loss or damage to
6 Plaintiff's property covered under the Sentinel policy related to COVID-19 and/or the
7 proclamations and orders; Sentinel denied Plaintiff's claim for coverage. On information and
8 belief, Sentinel has denied, and will continue to deny coverage for other similarly situated
9 policyholders.
10

11 43. Denying coverage for the claim is a breach of the insurance contract.

12 44. Plaintiff Prato is harmed by the breach of the insurance contract by Sentinel.

13 **VII. PRAYER FOR RELIEF**

14 1. A declaratory judgment that the policy or policies cover Plaintiff's losses and
15 expenses resulting from the interruption of the Plaintiff's business related to COVID-19 and/or
16 orders issued by Governor Inslee, other Governors, and/or other authorities.
17

18 2. A declaratory judgment that the defendant is responsible for timely and fully
19 paying all such losses.

20 3. Damages.

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

22 5. Reasonable attorney fees and costs.

23 6. Such further and other relief as the Court shall deem appropriate.
24

25 **VIII. JURY DEMAND**

26 Plaintiff demands a jury trial on all claims so triable.

1 DATED this 29th day of April, 2020.

2 KELLER ROHRBACK L.L.P.

3 By: s/ Amy Williams-Derry

4 By: s/ Lynn L. Sarko

5 By: s/ Ian S. Birk

6 By: s/ Gretchen Freeman Cappio

7 By: s/ Irene M. Hecht

8 By: s/ Maureen Falecki

9 By: s/ Nathan L. Nanfelt

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