

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

BARBER HOSPITALITY, LLC
Plaintiff,

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v.

Civil Action No. 2:18-cv-15

CERTAIN UNDERWRITERS AT
LLOYD’S, LONDON
Defendant.

PLAINTIFF’S ORIGINAL COMPLAINT & JURY DEMAND

Plaintiff BARBER HOSPITALITY, LLC (“Barber Hospitality” or “Plaintiff”) files this Original Complaint against Defendant CERTAIN UNDERWRITERS AT LLOYD’S, LONDON (“Lloyd’s” or “Defendant”) and would respectfully show the following:

Parties

1. Barber Hospitality is a domestic limited liability company in good standing with a principal place of business in San Patricio County, Texas. Matt Barber is the sole member of Barber Hospitality, and he is a resident of the State of Texas.

2. Lloyd’s is a foreign surplus lines insurance company engaged in the business of insurance in Texas, operating for the purpose of accumulating monetary profit. Lloyd’s regularly conducts the business of insurance in a systematic and continuous manner in the State of Texas. According to its insurance policy, Lloyd’s may be served with process by serving **Messers Mendes & Mount, 750 7th Avenue, New York, NY 10019.**

Venue & Jurisdiction

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Defendant and the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interests and costs.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because this action concerns real property located in San Patricio County, Texas, and all or a substantial part of the events giving rise to the claim described herein occurred in San Patricio County, Texas. In particular, the insurance policy at issue and of which Plaintiff is a beneficiary was to be performed in San Patricio County, Texas and the losses under the policy (including payments to be made to Plaintiff under the policy) were required to be made in San Patricio County, Texas. Further, investigation, including communications to and from Defendant and Plaintiff (including telephone calls, mailings, and other communications to Plaintiff) occurred in San Patricio County, Texas.

Factual Background

The Property

5. Barber Hospitality owns the commercial property located at 2810 Highway 361, Ingleside, Texas 78362 in San Patricio County (the “Property”). The Property consists of a brand-new Sleep Inn & Suites built by Barber Hospitality conveniently located on the Texas Gulf Coast near the Aransas Pass Civic Center, Portland, and Corpus Christi.



6. The property is a three-story structure totaling approximately 34,125 square feet and containing 72 hotel rooms. Barber Hospitality is the fee simple owner of the real estate comprising the Property, and also acts as operator of the Sleep Inn & Suites franchise operated out of the Property. Construction was completed on the Property in March 2017. With an investment of over \$6.3MM in the Property and the hotel franchise, Barber Hospitality intended to own and operate the facility for many years to come. Consistent with its long-term investment expectations, Barber Hospitality maintained a mortgage on the property through Stearns Bank, N.A.

Underwriters at Lloyd's London

7. Underwriters at Lloyd's London operates as the most prolific surplus lines, commercial insurer in the State of Texas – by a sizeable margin. In 2017, all surplus lines insurers operating in Texas wrote on a combined basis approximately \$5.5 billion in premiums. Of that, \$1.5 billion was written by Underwriters at Lloyd's London, with the next largest entity writing approximately \$250 million in premiums. See, https://www.sltx.org/TexasMarketData/slrp33cow_2017_bypremium.pdf. With about 28% of the lucrative Texas market for commercial insurance, Underwriters at Lloyd's London dominates the market as the largest participating insurance entity by a sizeable margin. Texas is one of the largest and most important markets for Lloyd's, and its Texas premiums represent about 10% of the total \$15 billion in premiums that Lloyd's writes annually throughout the United States.

8. Despite its critical place in the market, few business consumers recognize Underwriters at Lloyd's London for what it really is. Even though it maintains market hegemony in Texas and many other states, Lloyd's is actually licensed in only Illinois, Kentucky and the US Virgin Islands. In every other state – most notably in Texas – Lloyd's operates as an unlicensed surplus lines insurer that is neither admitted as an insurer in the state nor subject to traditional regulation by state regulators such as the Texas Department of Insurance.

9. Historically, Lloyd's capital requirements were satisfied by investors called “members,” each of whom bore unlimited liability for the insurance risks that Lloyd's underwrote. Today, institutional investors, typically international insurance companies, comprise the members that form most Lloyd's syndicates operating in Texas.

These alien syndicates are nothing more than foreign insurance companies utilizing Lloyd's eligibility to write insurance in the lucrative Texas market. The Policy at issue is a prime example of this abuse. The Policy was underwritten by 5 distinct Lloyd's syndicates, each of whom is a foreign, unlicensed, non-admitted, ineligible entity. Their only legal nexus to writing insurance in this state is by essentially piggybacking on Lloyd's surplus lines eligibility – in other words, borrowing Lloyd's license in order to operate in Texas from foreign shores. Demonstrative of this alarming trend, the Policy reflects the following participating syndicates and their share of the risk under the Policy:

SYNDICATE NO.	NAME	NATIONALITY	PERCENTAGE OF POLICY
510	Tokio Marine Kiln	Japan	33.6207%
1886	QBE Insurance Group	Australia	25.8621%
2121	Argenta Group	United Kingdom	13.7931%
1200	Argo Global	Bermuda	13.7931%
780	Advent Capital	United Kingdom	12.9310%

10. None of these insurers are licensed to write insurance in Texas. None are admitted carriers. None appear to have one single employee in this state. None has complied with any Texas regulatory requirement. Each of these foreign entities is essentially borrowing Lloyd's eligibility to write insurance in Texas, to the detriment of small business consumers like Barber Hospitality.

The Policy

11. Barber Hospitality paid \$24,472.35 to acquire Lloyd’s Policy No. TN109713 (the “Policy”). The Policy covers one single location – the Property located at 2810 Highway 361, Ingleside, Texas 78362. The Policy Period is January 23, 2017 through January 20, 2018, and includes the date of loss of August 25, 2017, the date Harvey made landfall. The Policy includes the following limits and coverages:

**COMMERCIAL PROPERTY COVERAGE PART
DECLARATIONS**

POLICY NO. TN109713

EFFECTIVE DATE: 01/23/2017

COVERED PROPERTY

INSURANCE AT THE DESCRIBED PREMISES APPLIES ONLY FOR COVERAGES FOR WHICH A LIMIT OF INSURANCE IS SHOWN.

<u>PREM NO.</u>	<u>BLDG NO.</u>	<u>COVERAGE</u>	<u>CAUSE OF LOSS</u>	<u>LIMITS</u>	<u>RATE</u>	<u>COINS.</u>	<u>VALUATION</u>	<u>AOP</u>	<u>WIND/HAIL</u>
1	1	Building	Basic	\$4,825,000		80%	RC	\$0	3%
1	1	Business Personal Property	Basic	\$750,000		80%	RC	\$0	3%
1	1	Business Income	Basic	\$950,000		50%			

12. As evidenced by the Declarations Page, the Policy provides for a replacement cost valuation, and contains a wind/hail deductible of 3%. The core of the Policy is a “Basic Cause of Loss” form, which is a named perils form that includes coverage for, among other things, windstorm such as that arising from a hurricane. *See* Exhibit “A.” The operative policy language provides:

A. Covered Causes Of Loss

When Basic is shown in the Declarations, Covered Causes of Loss means the following:

1. Fire.
2. Lightning.
3. Explosion, including the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass. This cause of loss does not include loss or damage by:
 - a. Rupture, bursting or operation of pressure-relief devices; or
 - b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water.
4. Windstorm or Hail, but not including:
 - a. Frost or cold weather;
 - b. Ice (other than hail), snow or sleet, whether driven by wind or not;
 - c. Loss or damage to the interior of any building or structure, or the property inside the building or structure, caused by rain, snow, sand or dust, whether driven by wind or not, unless the building or structure first sustains wind or hail damage to its roof or walls through which the rain, snow, sand or dust enters; or

13. Like most other policies, the Policy provided coverage for damage resulting from a “storm created opening” but not from “wind driven rain” that entered the building through an existing flaw in the building envelope. In wake of Hurricane Harvey, many insurers would use this narrow limitation on coverage as a loophole through which they would cram almost all of their coverage denials. And as the 800-pound gorilla in the Texas commercial insurance market, Underwriters at Lloyd’s London would set the standard for this coverage avoiding, policy misinterpretation.

Hurricane Harvey

14. On or about August 25, 2017, Hurricane Harvey, recognized as one of the most devastating natural disasters in United States history, made landfall on the Texas coast in San Patricio County and Aransas County as a Category 4 hurricane. Wind gusts of up to 132 miles per hour were reported within the same area of the Property. Rockport experienced wind speeds of up to 150 miles per hour. The National Weather Service has stated that these wind speeds are likely underestimated in coastal areas such as San Patricio County due to disabled equipment at the time Harvey made landfall. Hurricane Harvey continued to travel through the southeast part of Texas, inflicting billions of dollars in damages to private and public property. The Texas Division of Emergency Management incurred more than \$439 million in costs associated with debris removal, public property damage, and police/EMS response immediately after Harvey. Texas Governor Greg Abbott has estimated that Hurricane Harvey's damages will total an historic \$180 billion.

Barber Hospitality makes an insurance claim for Harvey related damage

15. As a result of Harvey's extreme winds when it made landfall on August 25, 2017, the Property was substantially damaged, and on August 28, 2017, Barber Hospitality made an insurance claims with Lloyd's. Damage to the hotel was substantial. Sizeable portions of the roof were ripped off by high winds, allowing rain to be driven through the building envelope. The following photograph depicts large portions of the roof surface torn off, with repairs underway:



Gaping holes were torn in the exterior stucco.



Outdoor lights were sheared off their metal anchors and destroyed.



Signs were torn off their housings and tossed into heaps on the ground.



Windows were smashed, unsealed and disengaged from their housings.



Rain, wind and storm driven water entered the building, destroying much of the interior.



Structural damage was substantial.



16. Having been completed just 5 months prior, the Property was state of the art hotel construction until Hurricane Harvey struck and caused extensive damage. Yet as devastating as the physical damage was, Barber Hospitality and its owner, Matt Barber, felt fortunate to be protected by the over \$6.5 million in insurance coverage they had procured to insure the property from precisely this type of catastrophe. This sense of security, borne of a

pricey contractual relationship, would prove illusory as Lloyd's and its consultants began their investigation and handling of the claim.

Lloyd's retains adjusters and consultants to begin adjusting the claim

17. Because neither Lloyd's nor the five foreign insurance groups that comprise the underwriters on the Policy have one single employee in Texas, they assigned Engle Martin Claims Administrative Services to handle the claim. Engle Martin is one of several adjusting firms, often referred to as a third-party administrator, that have sprouted to service the foreign, absentee insurance market led by Lloyd's. Although Texas law provides that an insurer has a "non-delegable duty" to responsibly handle claims, delegate is precisely what foreign insurance entities like Lloyd's do on a regular basis. Claims decisions are delegated to third-party administrators like Engle Martin with limited oversight by Lloyd's. Claim settlement authorities are granted to these entities, but they are done on a restrictive, one-size-fits all limited basis that bears no relationship to the claim at hand. Oftentimes, claims are not even reported to the actual insurance company until a third-party administrator such as Engle Martin decides it rises to a level that merits the insurer's attention. In this type of absentee insurer environment, claims standards and guidelines become arbitrary and are routinely outsourced. Adjuster training is deferred, or simply never happens. Financial incentives are turned on their head, as the third-party administrators and adjusters, and the managers who oversee them, are compensated with bonuses and incentives tied to profitability manufactured by claim denials. The absentee structure of Lloyd's is such that it is virtually impossible to comply with Texas law concerning claims handling guidelines and the prohibition on delegating these guidelines. But for foreign insurance entities shielded by oceans and a vacuum of regulatory oversight, delegation to third party administrators has

become the new normal.

Engle Martin assigns an adjuster, who claims that the extensive damage did not result from storm created exterior openings

18. Engle Martin commenced its investigation by assigning Ashraf Morsy as the adjuster responsible for the Barber Hospitality claim. According to the Texas Department of Insurance, Morsy is a Michigan resident and had been licensed as an adjuster for a mere two months at the time he was assigned to review the Property. Typically, newly licensed or inexperienced adjusters are assigned smaller, residential losses in order to hone their skills and gain experience. But in this instance, Engle Martin assigned this newly minted adjuster to inspect a multi-million-dollar property that had sustained an extensive and complex loss comprising all three coverage parts – building, contents and business interruption. The conduct of the claims investigation would make clear that Morsy was not remotely up to the task.

19. Although neither Lloyd’s nor Engle Martin has to date provided clear documentation of his inspection, Morsy purportedly visited the Property on August 31, 2017. According to Engle Martin, Morsy observed “minor” damage to the building exterior, “minor” damage to “some shingles” on the roof, downed lights, signs, gutters and fences. He also purportedly observed “significant” water damage to the interior of the building. But according to Engle Martin, its adjuster did not observe “exterior storm related damage which would have allowed the observed interior water to enter into the affected areas.” It is unclear at this time whether Engle Martin and Morsy, prepared an estimate reflecting these outlandish findings. *See Exhibit “B.”*

Engle Martin retains an engineer to further bolster its efforts to avoid coverage

20. Perhaps tacitly recognizing that Morsy was not qualified to render any

credible opinion as to the cause of the loss, Engle Martin further engaged SEA, Ltd. and its engineer Kendall B. Phillips to further assess the property. Sticking with the party line, on September 20, 2017 SEA opined that the water damage to the interior did not result from wind damage, but instead resulted from wind driven rain passing into the Package Terminal Air Conditioning (PTAC) units on the exterior walls. SEA further opined that water entered the building through joints in the exterior finish or flaws in sealant. In other words, despite clear photographic evidence of storm created openings in the building envelope – including the roof and stucco exterior – SEA assisted Engle Martin in its efforts to avoid making a claim payment by implicating the “wind driven rain” exception to the policy’s wind coverage provision contained in the Basic Cause of Loss form.

Lloyd’s uses the improper investigation to deny the claim

21. On October 8, 2017, Engle Martin, acting on behalf of Lloyd’s, issued a denial letter. The letter recites Morsy’s and SEA’s improper conclusions, and ignores the actual photographic evidence of storm created openings throughout the exterior and roof of the building. Based on the conclusions drawn by Lloyd’s chosen consultants, on October 8, 2017, Lloyd’s denied Barber Hospitality’s claim for wind damages from Harvey, stating “[t]he roof and Building exterior *were undamaged by a storm or other event.*” See Exhibit “B” (emphasis added). In a remarkable shirking of its own contractual obligations, Lloyd’s directs Barber Hospitality to contact FEMA for assistance.

Barber Hospitality works hard to document its damages for Lloyd’s

22. Lloyd’s egregious claims-handling process resulted in a wrongful denial that omitted the wealth of facts, photographs, physical evidence, and meteorological data from Hurricane Harvey supporting Barber Hospitality’s claim. Neighboring properties around

Barber Hospitality received prompt claim payments and assistance from their insurance carriers—but Lloyd's chose a different path. Instead, Lloyd's unreasonably pinned the loss on anything but the wind, an action designed to save Lloyd's in excess of \$1,000,000 in damages to the Property. To this day, Lloyd's has refused to pay for any covered damages under the Policy.

23. Barber Hospitality did all that it could to reason with Lloyd's and its consultants. Barber Hospitality engaged an estimating consultant, who on October 2, 2017 presented a detailed estimate reflecting \$1,060,312.61 to the building. Barber Hospitality began to gather up receipts and invoices reflecting the recent purchases of hundreds of thousands of dollars worth of furniture, fixtures and equipment comprising the contents loss, and obtain estimates to replace the downed signs and exterior lighting assemblies. It even engaged a remediation company to dry out the building and mitigate its losses, and paid over \$250,000 for that substantial work. Nevertheless, Lloyd's and its local consultants stood firm on the improper denial and refused to make any payments under the insurance contract.

The destruction of Barber Hospitality's business

24. Lloyd's unjustified refusal to pay has crippled Plaintiff's ability to conduct business. Instead of providing the contractual insurance benefits, Lloyd's wrongful denial eliminated Barber Hospitality's ability to re-open the income generating hotel, resulting in a business income loss exceeding policy limits even after a reasonable period of building restoration (had the claim been properly paid). Further, Lloyd's conduct has likely dealt Barber Hospitality a death blow: the foreseeable consequences of this outcome-oriented investigation and denial are that Barber Hospitality will likely have to forfeit the business

and sell it at a substantial loss, including surrendering the entire initial investment. Texas is pro-business place where small business owners like Matt Barber can count on their sweat and capital to pay dividends, and they can enjoy a business environment where entities like Barber Hospitality can thrive. Lloyd's of London disrupted the business environment for Barber Hospitality, and instead of honoring the insurance contract and serving as a contractual partner, Lloyd's knowingly chose to play Henry VIII to Barber Hospitality's Anne Boleyn.

Lloyd's ignores Barber Hospitality's demand letter

25. On June 1, 2017, Governor Abbot signed House Bill 1774 into law as Section 542A of the Texas Insurance Code. This new law was sponsored by approximately sixty state representatives and senators and contains important consumer protections against a variety of unscrupulous practices. Section 542A.003 in particular requires detailed, comprehensive presuit notice that is intended to make the claims and litigation processes more transparent and potentially even avoid unnecessary lawsuits. Upon receiving notice, an insurer has a right to conduct an inspection, and even make an offer to avoid litigation. When utilized properly, Section 542A should assist business consumers like Barber Hospitality to avoid protracted litigation over a clear claim.

26. In compliance with Section 542A.003, Barber Hospitality gave its presuit notice on October 26, 2017. The presuit notice provided a comprehensive outline of Barber Hospitality's claims and damages, quantified its loss, and even offered to waive a formal claim for attorneys' fees if the contractual amounts were paid promptly.

27. Lloyd's did not bother to respond.

Count 1 ---Violations of Texas Insurance Code, Section 541

28. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of this Complaint as if fully set forth herein.

29. Lloyd's failed to attempt to effectuate a prompt, fair, and equitable settlement of a claim with respect to which liability has become reasonably clear, in violation of Texas Insurance Code Section 541.060 (a)(2)(A).

30. Lloyd's failed to adopt and implement reasonable standards for prompt investigation of the claim arising under its policy.

31. Lloyd's failed to provide promptly a reasonable explanation, in relation to the facts or applicable law, for the denial of a claim, in violation of Texas Insurance Code Section 541.060 (a)(3).

32. Lloyd's refused to pay the claim without conducting a reasonable investigation with respect to the claim, in violation of Texas Insurance Code Section 541.060 (a)(7).

33. Lloyd's misrepresented the insurance policy under which it affords property coverage to Barber Hospitality, by making an untrue statement of material fact, in violation of Texas Insurance Code Section 541.061 (1). Lloyd's misrepresented the insurance policy to Barber Hospitality, by making an untrue statement of material fact, in violation of Texas Insurance Code Section 541.061 (1).

34. Lloyd's misrepresented the insurance policy under which it affords property coverage to Barber Hospitality by failing to state a material fact that is necessary to make other statements made not misleading, in violation of Texas Insurance Code Section 541.061 (2). Defendant misrepresented the insurance policy to Barber Hospitality by failing

to state a material fact that is necessary to make other statements made not misleading, in violation of Texas Insurance Code Section 541.061 (2).

35. Lloyd's misrepresented the insurance policy under which it affords property coverage to Barber Hospitality by making a statement in such manner as to mislead a reasonably prudent person to a false conclusion of material fact, and failing to disclose a matter required by law to be disclosed, in violation of Texas Insurance Code Section 541.061 (3) and Texas Insurance Code Section 541.002 (1). Defendant misrepresented the insurance policy to Barber Hospitality by making a statement in such manner as to mislead a reasonably prudent person to a false conclusion of material fact, and failing to disclose a matter required by law to be disclosed, in violation of Texas Insurance Code Section 541.061 (3) and Texas Insurance Code Section 541.002 (1).

36. Lloyd's knowingly committed the foregoing acts, with actual knowledge of the falsity, unfairness, or deception of the foregoing acts and practices, in violation of Texas Insurance Code Section 541.002 (1).

Count 2---Violations of the Texas Insurance Code, Section 542

37. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of this Complaint as if fully set forth herein.

38. Lloyd's failed to acknowledge receipt of the claim in violation of Texas Insurance Code Section 542.055 (a)(1).

39. Lloyd's failed to timely commence investigation of the claim or to request from Barber Hospitality any additional items, statements or forms that Lloyd's reasonably believed to be required from Barber Hospitality in violation of Texas Insurance Code Section 542.055 (a)(2)-(3).

40. Lloyd's failed to notify Barber Hospitality in writing of the acceptance or rejection of the claim not later than the 15th business day after receipt of all items, statements and forms required by Defendants in violation of Texas Insurance Code Section 542.056(a).

41. Lloyd's delayed payment of Barber Hospitality's claim in violation of Texas Insurance Code Section 542.058(a).

42. Each of the actions described herein were done "knowingly" as that term is used in the Texas Insurance Code and were a producing cause of Barber Hospitality's damages.

Count 3 ---Statutory Interest

43. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of the Complaint as if fully set forth herein.

44. Barber Hospitality makes a claim for statutory interest penalties along with reasonable attorneys' fees for violation of Texas Insurance Code Subchapter B pursuant to Texas Insurance Code Section 542.060.

Count 4---Breach of Contract

45. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of the Complaint as if fully set forth herein.

46. As outlined above, Lloyd's breached its contract with Barber Hospitality by refusing to pay for covered damages under the Policy. As a result of Lloyd's breach, Barber Hospitality suffered legal damages.

Count 5---Breach of duty of good faith & fair dealing

47. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of the Complaint as if fully set forth herein.

48. Lloyd's, as the property coverage insurer, had a non-delegable duty to deal fairly and in good faith with Barber Hospitality in the processing of the claim. Lloyd's breached this duty by refusing to properly investigate and effectively denying insurance benefits. Lloyd's knew or should have known that there was no reasonable basis for denying or delaying the required benefits. As a result of Lloyd's breach of these legal duties, Barber Hospitality suffered legal damages.

Count 6---Punitive Damages for Bad Faith

49. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of this Complaint as if fully set for herein.

50. Defendant acted fraudulently and with malice (as that term is legally defined) in denying and delaying Barber Hospitality's claim for benefits. Further, Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Barber Hospitality.

Count 7---Violations of Texas Deceptive Trade Practices Act

51. Barber Hospitality re-alleges and incorporates each allegation contained in Paragraphs 1-27 of this Complaint as if fully set forth herein.

52. The Deceptive Trade Practices-Consumer Protection Act (DTPA) provides additional protections to consumers who are victims of deceptive, improper, or illegal practices. Defendant's violations of the Texas Insurance Code create a cause of action under the DTPA. Defendant's violations of the Texas Insurance Code, as set forth herein, specifically violate the DTPA as well. Defendant has also acted unconscionably, as that term is defined under the DTPA.

53. Each of the actions described herein were done "knowingly" as that term is

used in the DTPA and were a producing cause of Barber Hospitality's damages.

Resulting Legal Damages

54. Barber Hospitality is entitled to the actual damages resulting from the Defendant's violations of the law. These damages include the consequential damages to its economic welfare from the wrongful denial and delay of benefits including loss of the property and business; and the other actual damages permitted by law. In addition, Barber Hospitality is entitled to exemplary damages.

55. As a result of Defendant's acts and/or omissions, Barber Hospitality has sustained damages in excess of the minimum jurisdictional limits of this Court.

56. Barber Hospitality is entitled under law to the recovery of prejudgment interest at the maximum legal rate.

57. Defendant's knowing violations of the Texas Insurance Code and DTPA entitle Barber Hospitality to the attorneys' fees, treble damages, and other penalties provided by law.

58. Barber Hospitality is entitled to statutory interest as damages under the Texas Insurance Code 542.060(c).

59. As a result of Defendant's acts and/or omissions, Barber Hospitality has sustained damages in excess of the jurisdictional limits of this Court.

60. Barber Hospitality is entitled under law to the recovery of prejudgment interest at the maximum legal rate.


61. Barber Hospitality is entitled to the recovery of attorneys' fees pursuant to Tex. Civ. Prac. & Rem. Code §38.001, the Texas Insurance Code 542.060(a)-(c), the Tex. Bus & Commerce Code §17.50 and Tex. Civ. Prac. & Rem. Code §37.009.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully request that Plaintiff have judgment against Defendant for actual damages in excess of the minimum jurisdictional limits of this Court, pre- and post-judgment interest as allowed by law, costs of suit, and all other relief, at law or in equity, to which Plaintiff may be entitled.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

JURY DEMAND

Barber Hospitality hereby demands a trial by jury, a right enshrined in the Constitution of the United States of America and the State of Texas and preserved by the sacrifices of many. The necessary jury fee has been paid.



JEFFREY L. RAIZNER