

Cause No. **2017CI16179**

IGLESIA EL JORDAN	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
V.	§	BEXAR COUNTY, TEXAS
	§	
CHURCH MUTUAL INSURANCE	§	
COMPANY and BEN D. SNEAD	§	
<i>Defendants</i>	§	<u>166</u> JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION & JURY DEMAND

Plaintiff IGLESIA EL JORDAN ("Plaintiff") by and through its attorneys, files this Original Petition & Jury Demand against Defendants CHURCH MUTUAL INSURANCE COMPANY ("Church Mutual") and BEN D. SNEAD ("Mr. Snead") (collectively "Defendants") and would respectfully show the following:

Discovery Control Plan

1.1 Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.

Parties

2.1 Plaintiff IGLESIA EL JORDAN is a domestic nonprofit corporation under the laws of the State of Texas.

2.2 Upon information and belief, Defendant Church Mutual is a foreign fire and casualty insurance company regularly engaged in the business of insurance in Texas, operating for the purpose of accumulating monetary profit. Church Mutual regularly and systematically issues insurance policies in the State of Texas. Church Mutual may be served with process by certified mail, return receipt requested on its

registered agent to Corporation Service Company, 211 East 7th Street, Suite 620, Austin, TX 78701-3218.

2.3 Upon information and belief, Ben D. Snead is an individual residing in the State of Texas and may be served with process at Ben D. Snead, 4907 Timber Heights, San Antonio, TX 78250-4441.

Venue & Jurisdiction

3.1 Venue is proper in Bexar County, Texas, because the insured's property is located in Bexar County, Texas, Tex. Civ. Prac. & Rem. Code §15.032. Venue is also proper in Bexar County under Tex. Civ. Prac. & Rem. Code section 15.002(a)(2), as Defendant Snead resides in Bexar County, Texas. Further under Tex. Civ. Prac. & Rem. Code Section 15.002(a)(1), as all or a substantial part of the events or omissions giving rise to this claim occurred in Bexar County and Plaintiff's property which is the subject of this suit is located in Bexar County, Texas. In particular, the insurance policy at issue and of which Iglesia el Jordan is a beneficiary was to be performed in Bexar County, Texas and the losses under the policy (including payments to be made to Iglesia el Jordan under the policy) were required to be made in Bexar County, Texas. Further, investigation, including communications to and from Defendants and Iglesia el Jordan (including telephone calls, mailings, and other communications to Iglesia el Jordan) occurred in Bexar County, Texas.

3.2 Iglesia el Jordan seeks damages within the jurisdictional limits of this Court. Iglesia el Jordan trusts the jury to evaluate the evidence, but at this time,

Iglesia el Jordan seeks monetary relief in an amount over \$1,000,000. Iglesia el Jordan reserves the right to modify the amount and type of relief sought in the future.

General Allegations

4.1 On or before April 25, 2016, Church Mutual marketed and sold a commercial insurance policy bearing Policy No. 0179761-02-709978 to Iglesia el Jordan whereby Church Mutual would provide property insurance for the commercial property located at 13003 SW Loop 410, San Antonio, Texas 78224 (the "Property") in exchange for the timely payment of premiums (the "Policy"). The Policy was sold by Church Mutual to Plaintiff as the insured under the Policy and provides coverage for the Property resulting from a wind and hail storm.

4.2 On or about April 25, 2016, Plaintiff's property was substantially damaged by the severe wind and hail storm that struck the area. As a result, the roof, exteriors, and interiors of the Property were substantially damaged. Immediately after the storm, Plaintiff filed an insurance claim under the Policy with Church Mutual for damages to the Property caused by the wind and hail storm. Plaintiff asked that the cost of repairs be covered pursuant to the Policy.

4.3 Church Mutual is the insurer on the Property. In response to the claim, Church Mutual assigned representatives, adjusters, consultants, and agents to Plaintiff's file that were inadequate and improperly trained. Specifically, Church Mutual assigned Plaintiff's claim to an internal representative, Mr. Snead, as the local

claims representative charged with assessing damages under the Policy. Mr. Snead was improperly trained and not equipped to handle this type of claim.

4.4 Mr. Snead failed to perform a thorough investigation of the claim. Mr. Snead performed a substandard inspection of the Property on June 14, 2016. Mr. Snead failed to acknowledge clear damages to the Church and School roof system and classrooms. Instead, Mr. Snead only estimated for damages to metal components of the roof and to comb out A/C fins, but refused to concede that the roof system itself had been compromised and that interior damages would clearly occur because Snead and the Carrier were refusing to provide full roof repairs and replacement. Mr. Snead refused to retain appropriate consultants to evaluate the claim. Mr. Snead failed to hire any qualified experts to appropriately assess the damage. Mr. Snead delayed the claims process and failed to communicate with the insured. Mr. Snead also misrepresented the Policy's coverage. Church Mutual relied on Mr. Snead's substandard investigation in determining what amounts, if any, to pay on Plaintiff's claim and failed to perform its own investigation. As a result of Mr. Snead's haphazard inspection, misrepresentations, and inadequate investigation, Church Mutual ultimately denied Plaintiff's claim on April 26, 2017. The Carrier never varied from the entirely inadequate amount of damage identified by Snead. Church Mutual and Mr. Snead performed an inadequate, incomplete and unreasonable investigation of Plaintiff's claim for the Property.

4.5 Church Mutual and Mr. Snead wrongfully denied Plaintiff's claim for property repairs. Church Mutual and Mr. Snead represented to Plaintiff that certain

damages were not covered under the Policy when in fact they were. Mr. Snead refused to provide answers to Plaintiff during the claims process, further delaying resolution of Plaintiff's claim in violation of his duties under Texas law. Church Mutual and Mr. Snead have chosen to continue to deny timely payment of the damages. As a result, Plaintiff has not been fully paid under the Policy provided by Church Mutual since the hailstorm. Iglesia el Jordan was forced to hire its own consultant to independently evaluate the damages to the Property because Defendants refused to do so. To this day, Church Mutual refuses to pay for the necessary repairs to the Property as required under the Policy.

4.6 As a result of Defendants' acts and/or omissions, Plaintiff was required to retain an attorney to prosecute its claim for insurance benefits.

4.7 Unfortunately, Defendants have delayed payment for Plaintiff's necessary and covered property repairs under the insurance policy that Church Mutual wrote. Given the repeated delays of payment, Plaintiff has been subjected to significant economic impact, worry, distress, and continuing economic and physical damage. Because of Defendants' delays, denials, and underpayment, Plaintiff has been unable to make necessary repairs to the Property which has resulted in further damages to the Property, including additional interior and roof damage, among others. In addition, Plaintiff has suffered financial harm and damage as a result of Defendants' denials and repeated delays. The significant effect of Defendants' wrongful and unjustified delays, however, is still uncompensated.

FIRST CAUSE OF ACTION--Violations of Texas Insurance Code

5.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-4.7 of this Petition as if fully set forth herein.

5.2 Church Mutual and Mr. Snead 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).

5.3 Church Mutual and Mr. Snead failed to adopt and implement reasonable standards for prompt investigation of claims arising under its policies.

5.4 Church Mutual and Mr. Snead 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).

5.5 Church Mutual and Mr. Snead refused to pay a claim without conducting a reasonable investigation with respect to the claim, in violation of Texas Insurance Code Section 541.060 (a)(7).

5.6 Church Mutual and Mr. Snead misrepresented the insurance policy under which it affords Property coverage to Plaintiff, by making an untrue statement of material fact, in violation of Texas Insurance Code Section 541.061 (1). Church Mutual and Mr. Snead misrepresented the insurance policy to Plaintiff, by making an untrue statement of material fact, in violation of Texas Insurance Code Section 541.061 (1).

5.7 Church Mutual and Mr. Snead misrepresented the insurance policy under which it affords Property coverage to Plaintiff, 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). Church Mutual and Mr. Snead misrepresented the insurance policy to Plaintiff 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).

5.8 Church Mutual and Mr. Snead misrepresented the insurance policy under which it affords Property coverage to Plaintiff, 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). Church Mutual and Mr. Snead misrepresented the insurance policy to Plaintiff 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).

5.9 Church Mutual and Mr. Snead 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).

SECOND CAUSE OF ACTION---Prompt Payment of Claim

6.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-5.9 of this Petition as if fully set forth herein.

6.2 Church Mutual and Mr. Snead failed to acknowledge receipt of the claim in violation of Texas Insurance Code Section 542.055 (a)(1).

6.3 Church Mutual and Mr. Snead failed to timely commence investigation of the claim or to request from Plaintiff any additional items, statements or forms that Church Mutual and Mr. Snead reasonably believe to be required from Plaintiff in violation of Texas Insurance Code Section 542.055 (a)(2)-(3).

6.4 Church Mutual and Mr. Snead failed to notify Plaintiff 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 Church Mutual and Mr. Snead in violation of Texas Insurance Code Section 542.056(a).

6.5 Church Mutual and Mr. Snead delayed payment of Plaintiff's claim in violation of Texas Insurance Code Section 542.058(a).

THIRD CAUSE OF ACTION--Statutory Interest

7.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-6.5 of the Petition as if fully set forth herein.

7.2 Plaintiff makes a claim for penalties of 18% statutory interest on the amount of the claims along with reasonable attorneys' fees for violation of Texas Insurance Code Subchapter B pursuant to Texas Insurance Code Section 542.060.

FOURTH CAUSE OF ACTION--Breach of Contract

8.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-7.2 of the Petition as if fully set forth herein.

8.2 Church Mutual breached its contract with Plaintiff. As a result of Church Mutual's breach, Plaintiff suffered legal damages.

FIFTH CAUSE OF ACTION--Breach of duty of good faith & fair dealing

9.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-8.2 of the Petition as if fully set forth herein.

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

SIXTH CAUSE OF ACTION---Punitive Damages for Bad Faith

10.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-9.2 of this Petition as if fully set for herein.

10.2 Church Mutual and Mr. Snead fraudulently and with malice (as that term is legally defined) denied Plaintiff's claim for benefits. Further, Church Mutual and Mr. Snead had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff.

SEVENTH CAUSE OF ACTION---Violations of Texas DTPA

11.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-10.2 of this Complaint as if fully set forth herein.

11.2 The Deceptive Trade Practices-Consumer Protection Act (DTPA) provides additional protections to consumers who are victims of deceptive, improper, or illegal practices. Defendants' violations of the Texas Insurance Code create a cause of action under the DTPA. Defendants' violations of the Texas Insurance Code, as set forth herein, specifically violate the DTPA as well.

EIGHTH CAUSE OF ACTION--Fraud

12.1 Plaintiff re-alleges and incorporates each allegation contained in Paragraphs 1-11.2 of this Complaint as if fully set forth herein.

12.2 Church Mutual and Mr. Snead acted fraudulently as to each representation made to Plaintiff concerning material facts for the reason they would not have acted and which Church Mutual and Mr. Snead knew were false or made recklessly without any knowledge of their truth. The representations were made with the intention that they be acted upon by Plaintiff, who relied on those representations, thereby causing injury and damage to Plaintiff.

KNOWLEDGE

13.1 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 Plaintiff's damages.

RESULTING LEGAL DAMAGES

14.1 Plaintiff is entitled to the actual damages resulting from the Defendants' violations of the law. These damages include the consequential damages to its economic welfare from the wrongful denial and delay of benefits; the mental anguish and physical suffering resulting from this wrongful denial of benefits, and continued

impact on Plaintiff; lost credit reputation; and the other actual damages permitted by law. In addition, Plaintiff is entitled to exemplary damages.

14.2 As a result of Defendants' acts and/or omissions, Plaintiff has sustained damages in excess of the minimum jurisdictional limits of this Court.

14.3 Plaintiff is entitled under law to the recovery of prejudgment interest at the maximum legal rate.

14.4 Defendants' knowing violations of the Texas Insurance Code and DTPA entitle Plaintiff to the attorneys' fees, treble damages, and other penalties provided by law.

14.5 Plaintiff is entitled to statutory interest on the amount of its claim at the rate of 18% per year as damages under the Texas Insurance Code §542.060(a).


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

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that Plaintiff have judgment against Defendants 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,

RAIZNER SLANIA LLP

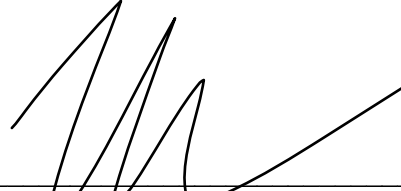


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ATTORNEYS FOR PLAINTIFF

JURY DEMAND

Plaintiff 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