

Cause No. _____

AMBAJI HOSPITALITY INC. DBA § IN THE DISTRICT COURT OF
ISLAND SUITES §
§
V. § HARRIS COUNTY, TEXAS
§
GREAT LAKES REINSURANCE (UK) §
PLC, BREZINA CLAIM ASSOCIATES, §
INC. AND JAY RAYBURN § ____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION & JURY DEMAND

TO THE HONORABLE JUDGE & JURY OF HARRIS COUNTY CITIZENS:

Plaintiff AMBAJI HOSPITALITY INC. DBA ISLAND SUITES ("Island Suites" or "Plaintiff") files this Original Petition against Defendants GREAT LAKES REINSURANCE (UK) PLC, BREZINA CLAIM ASSOCIATES, INC. and JAY RAYBURN (together "Defendants") and would respectfully show the following:

Discovery Control Plan

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

Parties

2.1 Island Suites is a natural person residing in the State of Texas.

2.2 Upon information and belief, Great Lakes Reinsurance (UK) PLC ("Great Lakes") is a non-admitted, foreign surplus lines insurance company engaged in the business of insurance in Texas, operating for the purpose of accumulating monetary profit. Great Lakes regularly conducts the business of insurance in a

systematic and continuous manner in the State of Texas and does not maintain an agent for service in the State. Accordingly, Great Lakes may be served with process by serving certified mail, return receipt requested, to **Texas Department of Insurance, 333 Guadalupe, Austin, Texas 78701** who can forward process to c/o Drinker Biddle, 1177 Avenue of the Americas Floor 41, New York, New York 10036-2714.

2.3 Upon information and belief, Brezina Claim Associates, Inc. (“Brezina”) is a domestic corporation operating out of Houston, Harris County, Texas and may be served with process through its registered agent, **Cassian B. Brezina, 6633 Hillcroft Suite 201, Houston, Texas 77036.**

2.4 Upon information and belief, Jay Rayburn is a natural person residing and working in the State of Texas. He may be served with process at **Jay Rayburn, 320 Van Ostrand, Stowell, Texas 77661.**

Venue & Jurisdiction

3.1 Venue is proper in Harris County 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 Harris County. In particular, the property at issue is located in Harris County, Texas, the insurance policy at issue and of which Island Suites is a beneficiary was to be performed in Harris County, Texas and the losses under the policy (including payments to be made to Island Suites under the policy) were required to be made in Harris County, Texas. Further, investigation, including communications to and from Defendants and Island

Suites (including telephone calls, mailings, and other communications to Island Suites) occurred in Harris County, Texas.

3.2 Venue is further proper under Tex. Civ. Prac. & Rem. Code section 15.002(a)(2), as at least one Defendant resided in Harris County at the time this cause of action accrued.

3.3 Island Suites seeks damages within the jurisdictional limits of this Court. Island Suites trusts the jury to evaluate the evidence, but at this time, Island Suites seeks monetary relief in an amount over \$1,000,000. Island Suites reserves the right to modify the amount and type of relief sought in the future.

Factual Background

4.1 On or before April 4, 2012, Great Lakes sold a commercial property insurance policy bearing Policy No. GK1139061142 to Island Suites whereby Great Lakes would provide insurance coverage for the property located at 11635 Gulf Freeway, Houston, Texas 77034 (the "Property") in exchange for the timely payment of premiums. The policy was sold by Great Lakes to Island Suites as the insured under the policy and purports to provide coverage for damages to the Property caused by wind and hail. On or about April 4, 2012, there was a wind and hail storm in Harris County and at the Property. As a result, the Property sustained significant damage including damage to the roof, HVAC, windows, exterior, interior, ceilings, interior, furnishings, and more. After the storm, Island Suites filed an insurance claim under the Policy with Great Lakes for damage to

the Property caused by the wind and hail, asking that the damages be covered pursuant to the Policy.

4.2 Again, on or before December 25, 2012, Great Lakes sold a renewal policy bearing Policy No. GK1239063613 to Island Suites whereby Great Lakes would continue to provide insurance coverage for the Property in exchange for the timely payment of premiums. The policy was sold by Great Lakes to Island Suites as the insured under the policy and purports to provide coverage for damages to the Property caused by wind and rain. On or about December 25, 2012, a severe wind and rain storm struck Harris County and specifically the Property, causing significant damage. As a result of the wind and rain storm, the Property sustained additional damages to the roof, HVAC, windows, exterior, interior, ceilings, furnishings, and more. After the storm, Island Suites filed an insurance claim under the renewal policy with Great Lakes for damage to the Property caused by the wind and rain, asking that the damages be covered pursuant to the Policy.

4.3 Island Suites timely submitted claims for the damages under each policy sold by Great Lakes. Great Lakes is the insurer on the property. Great Lakes assigned adjusters, consultants, and agents to Plaintiff's file that were inadequate and improperly trained to handle this type of claim. Specifically, Great Lakes, a foreign company, assigned Brezina as the local third party adjusting firm to handle the claims. In turn, Brezina assigned Rayburn as the individual adjuster with decision-making authority over the claims and responsibility for assessing damages

to the Property under Great Lakes' policies. Great Lakes' chosen adjusters failed to perform a thorough investigation of the claim.

4.4 Brezina and Rayburn failed to engage consultants and adjusters to objectively evaluate the damage. Brezina and Rayburn refused to conduct an adequate investigation into the damages to Island Suites' property. Several months later, on August 13, 2013, Rayburn inspected the Property, but failed to prepare any estimates reflecting wind and hail damage; instead, Brezina and Rayburn represented that there was no hail damage to the Property. As a result, Island Suites' claim was denied and no payments were issued by Great Lakes. With respect to the wind and rain storm on December 25, 2012, Brezina and Rayburn prepared an estimate of damages that grossly underestimated the extent and value of the damages to the Property. Because of Brezina and Rayburn's actions, Plaintiff was forced to hire its own consultants and representatives prepare its own estimates pointing out obvious damages that they continued to ignore.

4.5 Great Lakes relied on Brezina and Rayburn's substandard investigations in making coverage determinations and in deciding what amounts, if any, to pay on the claim. Great Lakes, Brezina, and Rayburn performed an inadequate, incomplete, and unreasonable investigation of Island Suites' claims, which is evidenced by the estimates and reports that fail to account for the necessary repairs to the Property.

4.6 Great Lakes, Brezina, and Rayburn wrongfully denied and underpaid Island Suites' claims for property repairs under the policies. Great Lakes, Brezina, and

Rayburn represented to Island Suites that certain damages and losses were not covered under the policies when in fact they were. After delaying the claims process, Rayburn declined to continue evaluating the claim and, as a result, Great Lakes refused to issue any further payments under the Policy. Island Suites was forced to hire his own consultants, given Defendants' delay and refusal to completely pay for damages under the Policy. Great Lakes, Brezina, and Rayburn have chosen to continue to deny and delay timely payment of the covered damages under the policies. As a result, Island Suites has not been fully paid under the policies provided by Great Lakes since the event.

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

4.8 Unfortunately, Great Lakes, Brezina, and Rayburn have delayed payment for Island Suites' necessary and covered property repairs under its insurance policies. Given the repeated delays of payment, Island Suites has been subjected to significant economic impact, worry, distress, and continuing economic and physical damage. In addition, Island Suites 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 Island Suites re-alleges and incorporates each allegation contained in Paragraphs 1-4.8 of this Petition as if fully set forth herein.

5.2 Great Lakes, Brezina, and Rayburn 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 Great Lakes, Brezina, and Rayburn failed to adopt and implement reasonable standards for prompt investigation of claims arising under its policies.

5.4 Great Lakes, Brezina, and Rayburn 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 Great Lakes, Brezina, and Rayburn 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 Great Lakes, Brezina, and Rayburn misrepresented the insurance policy under which it affords property coverage to Island Suites, by making an untrue statement of material fact, in violation of Texas Insurance Code Section 541.061 (1).
Great Lakes, Brezina, and Rayburn misrepresented the insurance policy to Island Suites, by making an untrue statement of material fact, in violation of Texas Insurance Code Section 541.061 (1).

5.7 Great Lakes, Brezina, and Rayburn misrepresented the insurance policy under which it affords property coverage to Island Suites 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). Great Lakes, Brezina, and Rayburn misrepresented the insurance policy to Island Suites 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 Great Lakes, Brezina, and Rayburn misrepresented the insurance policy under which it affords property coverage to Island Suites 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). Great Lakes, Brezina, and Rayburn misrepresented the insurance policy to Island Suites 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 Great Lakes, Brezina, and Rayburn 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 Island Suites re-alleges and incorporates each allegation contained in Paragraphs 1-5.9 of this Petition as if fully set forth herein.

6.2 Great Lakes, Brezina, and Rayburn failed to acknowledge receipt of the claim in violation of Texas Insurance Code Section 542.055 (a)(1).

6.3 Great Lakes, Brezina, and Rayburn failed to timely commence investigation of the claim or to request from Island Suites any additional items, statements or forms that Great Lakes, Brezina, and Rayburn reasonably believe to be required from Island Suites in violation of Texas Insurance Code Section 542.055 (a)(2)-(3).

6.4 Great Lakes, Brezina, and Rayburn failed to notify Island Suites 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 in violation of Texas Insurance Code Section 542.056(a).

6.5 Great Lakes, Brezina, and Rayburn delayed payment of Island Suites' claim in violation of Texas Insurance Code Section 542.058(a).

THIRD CAUSE OF ACTION--Statutory Interest

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

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

8.2 Great Lakes breached its contract with Island Suites. As a result of Great Lakes' breach, Island Suites suffered legal damages.

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

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

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

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

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

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

SEVENTH CAUSE OF ACTION---Violations Of Texas DTPA

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

12.2. Great Lakes and Rayburn acted fraudulently as to each representation made to Island Suites concerned material facts for the reason they would not have acted and which Great Lakes and Rayburn 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 Island Suites, who relied on those representations, thereby causing injury and damage to Island Suites.

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 Island Suites' damages.

RESULTING LEGAL DAMAGES

14.1 Island Suites 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 Island Suites; lost credit reputation; and the

other actual damages permitted by law. In addition, Island Suites is entitled to exemplary damages.

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

16.3 Island Suites is entitled under law to the recovery of prejudgment interest at the maximum legal rate.

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

16.5 Island Suites is entitled to statutory interest on the amount of their claim at the rate of 18% per year as damages under the Texas Insurance Code 542.060(a).

16.6 As a result of Defendants' acts and/or omissions, Island Suites has sustained damages in excess of the jurisdictional limits of this Court.

16.7 Island Suites is entitled under law to the recovery of prejudgment interest at the maximum legal rate.

16.8 Island Suites 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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JURY DEMAND

Island Suites 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