

Cause No. 2021DCV-4320-F

SHORELINE HOSPITALITY, LP dba	§	IN THE DISTRICT COURT OF
RESIDENCE INN	§	
<i>Plaintiff</i>	§	
	§	
v.	§	NUECES COUNTY, TEXAS
	§	
	§	
MT. HAWLEY INSURANCE COMPANY	§	
AND RENAISSANCE RE SYNDICATE	§	
1458 LLOYD'S	§	
<i>Defendants</i>	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION & JURY DEMAND

Plaintiff SHORELINE HOSPITALITY, LP dba RESIDENCE INN (“Residence Inn” or “Plaintiff”) files this Original Petition & Jury Demand against Defendants MT. HAWLEY INSURANCE COMPANY (“Mt. Hawley”) and RENAISSANCE RE SYNDICATE 1458 LLOYD’S (“Lloyd’s”) (collectively “Carriers” or “Defendants”) and would respectfully show the following:

Discovery Control Plan

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

Parties

2. Shoreline Hospitality, LP dba Residence Inn is a domestic limited partnership located and operating in the State of Texas.

3. Upon information and belief Mt. Hawley is a foreign insurer with its principal place of business in Illinois, and its place of incorporation Delaware, engaged in the business of insurance in Texas, operating for the purposes of accumulating monetary profit. Mt. Hawley regularly conducts the business of insurance in a systematic and continuous manner in the State of Texas. Mt.

Hawley may be served with process to **Mt. Hawley Insurance Company, Craig W. Kliethermes, President, 9025 N. Lindbergh Drive, Peoria, Illinois 61615.**

4. Upon information and belief, Lloyd's is a foreign 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. Lloyd's may be served with process through its registered agent, **Mendes & Mount, LLP, 750 Seventh Avenue, New York, New York 10019-6829.**

Venue & Jurisdiction

5. Venue is proper in Nueces County under TEX. CIV. PRAC. & REM. CODE §15.032 as the insured property is situated in Nueces County, Texas. Venue is also proper in Nueces 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 the claims of Plaintiff occurred in Nueces County. In particular, the adjustment of the claim by Defendants for losses under the policy (including payments to be made to Plaintiff under the policy) were conducted in Nueces County, Texas, and the insured property at issue is located Nueces, Texas, within Nueces County. Investigations and policy representations, including communications to and from Defendants and Plaintiff (including telephone calls, mailings, and other communications to Plaintiff) occurred in Nueces County, Texas.

6. Plaintiff seeks damages within the jurisdictional limits of this Court. At this time, Plaintiff seeks monetary relief in an amount over \$1,000,000. Plaintiff reserves the right to modify the amount and type of relief sought in the future.

Factual Background

The Property

7. Plaintiff owns and operates the commercial property located at 309 S. Shoreline Blvd., Corpus Christi, Texas 78401 in Nueces County, Texas (the “Property”).



The Property is a five-story building with 94,614 square feet of interior space. The hotel houses guest rooms, meeting/reception areas, office space, and kitchen facilities.

The Policy

8. Prior to July 25, 2020, Plaintiff paid annual premiums, assessments, fees, surcharges, and taxes to the Carriers to acquire comprehensive commercial insurance coverage for the Property and the business under the Carriers Policy No. MPC0500452 (the “Policy”). The Policy provides coverage for Plaintiff’s business and the Property, for covered damages that occur during the Policy Period, from August 26, 2019 through August 26, 2020. In exchange for Plaintiff’s premium payment, the Policy includes the following limits and coverages, in relevant part:

Prem./Loc. No.	Bldg. No.	Limit of Insurance	Type of Coverage	Coins. Percent	Val.*	Description & Location of Property Covered
00001	001	\$16,000,000	Building	N/A	RCV	Built: 2019, Masonry - Masonry Non-Combustible 309 South Shoreline Boulevard Corpus Christi, TX 78401 Hotel
00001	001	\$1,000,000	Business Income/ Rental Value (with Extra Expense)	N/A	ALS	Built: 2019, Masonry - Masonry Non-Combustible 309 South Shoreline Boulevard Corpus Christi, TX 78401 Hotel
00001	001	\$3,500,000	Business Personal Property	N/A	RCV	Built: 2019, Masonry - Masonry Non-Combustible 309 South Shoreline Boulevard Corpus Christi, TX 78401 Hotel
00001	002	\$50,000	Outside Signs	N/A	RCV	Built: 2019, Other Structures - Wind - Signs 309 South Shoreline Boulevard Corpus Christi, TX 78401 Sign
00001	003	\$20,000	Fence	N/A	RCV	Built: 2019, Fence 309 South Shoreline Boulevard Corpus Christi, TX 78401 Fence

9. As evidenced by the Declarations Page, the Policy provides coverage to the Property's physical structure on a replacement cost value basis for damages up to \$16,000,000 in addition to damages to business property up to \$3,500,000 and lost business income up to \$1,000,000. *See* Ex. A, Policy, at Declarations Pages.

10. The Policy also contains a Deductible provision that confirms coverage for damages to the interior of the Property that result from wind, hail, and named windstorm damage:

\$5,000 Per Occurrence for All Covered Perils, except:

2.00% of the Total Values at Risk Per Location (including time element if applicable) at the time of loss or damage subject to a minimum of \$25,000 Per Occurrence for Named Storm

\$25,000 Per Occurrence for Windstorm or Hail(other than Named Storm)

11. As a result of Hurricane Hanna's extreme winds and rain when it hit Nueces County and specifically the Property, on or about July 25-26, 2020, the Property was substantially damaged. Sizeable portions of the Property's roof were compromised by wind. As a result, there was also

interior damage to ceilings, windows, and HVAC system. The following photographs taken after Hanna depict some of the damage:



12. There was also significant damage to the roof and insulation:



13. The Property—specifically the roof, HVAC, ceilings, and windows—were substantially damaged by Hanna. Yet as devastating as the physical damage was, Plaintiff felt fortunate to be protected by \$16 million in insurance coverage it had procured to insure the Property from precisely this type of catastrophe. Immediately after the storm, Plaintiff promptly filed a claim with the Carriers, alerting them to the extensive damages. This sense of security, borne of a pricey contractual relationship, would prove illusory as the Carriers began their investigation and handling of the claim.

14. The Carriers' claims-handling process resulted in a wrongful denial that omitted a

wealth of facts, physical evidence, obvious wind damages, and meteorological data from Hurricane Hanna supporting Plaintiff's claim. The Carriers unreasonably pinned the loss on anything but the wind, an action designed to save the Carriers hundreds of thousands of dollars in damages to the Property and the business.

15. The Carriers assigned an adjuster, Kevin Mayfield from Engle Martin & Associates, to handle the claim. Mayfield was unqualified and incapable of adequately assessing the damages to the Property and was the source of many delays throughout the claims process. After utilizing preferred vendor Teal Forensics, Jeff Foster, P.E and Matthew Spiekerman P.E., to inspect the Property, the Carriers and Mayfield continued to delay claim resolution. Mr. Foster and Mr. Spiekerman concluded that the damage was due to anything except the result of wind and gust. The Carriers relied upon their opinions for its coverage decision as stated by Tony Avila in a letter to Plaintiff. Despite clear evidence of covered damage, the Carriers engaged in and ratified this improper claim conduct and ultimately declined to issue a full payment.

16. To this day, due to the Carriers' outcome-oriented, inadequate, and haphazard investigation, the Carriers have refused to fully pay for the covered damages under the Policy.

17. On June 1, 2017, Governor Abbott 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. Particularly, Section 542A.003 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 Plaintiff to avoid protracted litigation over a

clear claim.

18. In compliance with Section 542A.003, Plaintiff gave its pre-suit notice to the Defendants on August 30, 2021. The pre-suit notice provided a comprehensive outline of Residence Inn'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.

19. Defendants responded to the demand on October 28, 2021 but refused to acknowledge its own wrongdoing.

FIRST CAUSE OF ACTION---Violations of Texas Insurance Code

20. Residence Inn re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

21. The Carriers 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).

22. The Carriers failed to adopt and implement reasonable standards for prompt investigation of the claim arising under its policy.

23. The Carriers 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).

24. The Carriers 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).

25. The Carriers 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).

26. The Carriers 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).

27. The Carriers 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).

28. The Carriers 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

29. Plaintiff re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

30. The Carriers failed to acknowledge receipt of the claim in violation of Texas Insurance Code Section 542.055 (a)(1).

31. The Carriers failed to timely commence investigation of the claim or to request from Plaintiff any additional items, statements or forms that the Carriers reasonably believed to be required from Plaintiff in violation of Texas Insurance Code Section 542.055 (a)(2)-(3).

32. The Carriers 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 Defendants in violation of Texas Insurance Code Section 542.056(a).

33. The Carriers delayed payment of Plaintiff's claim in violation of Texas Insurance

Code Section 542.058(a).

34. 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.

THIRD CAUSE OF ACTION--Statutory Interest

35. Plaintiff re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

36. Plaintiff 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.

FOURTH CAUSE OF ACTION--Breach of Contract

37. Plaintiff re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

38. As outlined above, the Carriers breached its contract with Plaintiff by refusing to pay for covered damages under the Policy. As a result of the Carriers’ breach, Plaintiff suffered legal damages.

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

39. Plaintiff re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

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

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

41. Plaintiff re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

42. The Carriers acted fraudulently and with malice (as that term is legally defined) in denying and delaying Plaintiff's claim for benefits. Further, the Carriers 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

43. Plaintiff re-alleges and incorporates each allegation contained in the previous Paragraphs of this Complaint as if fully set forth herein.

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

45. Each of the actions described herein were done "knowingly" as that term is used in the DTPA and were a producing cause of Plaintiff's damages.

KNOWLEDGE

46. 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

47. 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 including loss of the property and business; and the other actual damages permitted by law. In addition, Plaintiff is entitled to exemplary damages.

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

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

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

51. Plaintiff is entitled to statutory interest as damages under the Texas Insurance Code 542.060(c).

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

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

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

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully request that Plaintiff have a 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



JEFFREY L. RAIZNER

State Bar No. 00784806

ANDREW P. SLANIA

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ATTORNEYS FOR PLAINTIFF

JURY DEMAND

Shoreline Hospitality, LP dba Residence Inn 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.



ANDREW P. SLANIA

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Andrew Slania on behalf of Andrew Slania
Bar No. 24056338
aslania@raiznerlaw.com
Envelope ID: 58851720
Status as of 11/4/2021 11:24 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Raizner Slania		efile@raiznerlaw.com	11/4/2021 10:54:59 AM	SENT

COMMERCIAL PROPERTY POLICY DECLARATIONS PAGE

Mt. Hawley Insurance Company 90%
Peoria, Illinois 61615, USA

Renaissance Re Syndicate 1458 Lloyd's 10%
London, EC3M 7HA, United Kingdom

Policy Number: MPC0500452

Unique Market Reference (UMR): B087519R06F5001

Named Insured and Mailing Address:

Shoreline Hospitality LP
DBA: Residence Inn
309 S Shoreline Blvd
Corpus Christi, TX 78401

Agent/Broker and Mailing Address:

US Risk Underwriters, Inc.
Suite 450
900 S Capital of Texas
Austin, TX 78746

Policy Period: From 08/26/2019 to 08/26/2020 at 12:01 A.M. Standard Time at your mailing address shown above.

DESCRIPTION OF PREMISES

Covered Locations Listed Below:

309 South Shoreline Boulevard, Corpus Christi, TX 78401

CAUSES OF LOSS: Special including Equipment Breakdown excluding Earthquake and Flood

Total coverage (limit) applicable Limit \$20,570,000

Refer to CPR 2162, Specified Limits Endorsement

Per Occurrence Loss Limit

At no time will we pay more than \$20,570,000 for a loss due to a single occurrence or event.

DEDUCTIBLE(S): Refer to CPR 2218, Declarations - Deductible Addendum

FORMS MADE A PART OF THIS POLICY AT TIME OF ISSUE: See CPR 2150, Applicable Forms & Endorsements

PCA Fees	\$ 150
Inspection Fees	\$ 300
Total Premium	\$ 56,721
Amount Payable At Inception	\$ 57,171

Pro Rata Shares Applicable to this Combination Policy: Mt. Hawley Insurance Company will be responsible for 90% of all losses under this policy and Renaissance Re Syndicate 1458 Lloyd's will be responsible for 10% of all losses under this policy. Each of the Companies will be severally (but not jointly) liable solely for its own pro rata share.

Authorized Signature

JY 9/12/2019

FRPRC 100 (05/16)

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EXHIBIT A

DECLARATIONS - SUB-LIMIT ADDENDUM

The total Limit of Liability as shown in the Declarations is subject to the following sub-limit(s). The sub-limit(s) shown is a limit or amount per occurrence, except for Earthquake and Flood where an annual aggregate applies. The sub-limit(s) shown are included in and do not increase the Limit of Liability shown in the Declarations. We will not, in any case, exceed this sub-limit(s) in one disaster, casualty or event, no matter how many locations are involved.

Coverage Part or Item:	Sub-Limit
Fire Department Service Charges	\$5,000

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DECLARATIONS - DEDUCTIBLE ADDENDUM

The following deductible wording is in addition to all other deductible wording found elsewhere in this policy. All other deductible wording found in and made a part of this policy also applies. Each claim for loss or damage will be adjusted separately.

\$5,000 Per Occurrence for All Covered Perils, except:

2.00% of the Total Values at Risk Per Location (including time element if applicable) at the time of loss or damage subject to a minimum of \$25,000 Per Occurrence for Named Storm

\$25,000 Per Occurrence for Windstorm or Hail(other than Named Storm)

Definition:

The Phrase "Per Location (including time element if applicable)" is the sum of all Limits associated with the same Prem./Loc No. on the Specified Limits Endorsement, CPR-2162(01/02).

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

9025 North Lindbergh Drive, Peoria, IL 61615

SUPPLEMENTAL DECLARATIONS

Policy No: MPC0500452

Named Insured and Mailing Address

Shoreline Hospitality LP
DBA: Residence Inn
309 S Shoreline Blvd
Corpus Christi, TX 78401

Portion of premium attributable to coverage for Certified Acts of Terrorism \$1,500

Portion of premium attributable to coverage for Certified Acts of Terrorism
(fire only), as required by state law \$Not Applicable

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIFIED LIMITS ENDORSEMENT

Prem./Loc. No.	Bldg. No.	Limit of Insurance	Type of Coverage	Coins. Percent	Val.*	Description & Location of Property Covered
00001	001	\$16,000,000	Building	N/A	RCV	Built: 2019, Masonry - Masonry Non-Combustible 309 South Shoreline Boulevard Corpus Christi, TX 78401 Hotel
00001	001	\$1,000,000	Business Income/ Rental Value (with Extra Expense)	N/A	ALS	Built: 2019, Masonry - Masonry Non-Combustible 309 South Shoreline Boulevard Corpus Christi, TX 78401 Hotel
00001	001	\$3,500,000	Business Personal Property	N/A	RCV	Built: 2019, Masonry - Masonry Non-Combustible 309 South Shoreline Boulevard Corpus Christi, TX 78401 Hotel
00001	002	\$50,000	Outside Signs	N/A	RCV	Built: 2019, Other Structures - Wind - Signs 309 South Shoreline Boulevard Corpus Christi, TX 78401 Sign
00001	003	\$20,000	Fence	N/A	RCV	Built: 2019, Fence 309 South Shoreline Boulevard Corpus Christi, TX 78401 Fence

* Valuation. Indicate: ACV (Actual Cash Value), ALS (Actual Loss Sustained), RCV (Replacement Cost Value), SP (Selling Price) or SV (Stated Value).

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.