

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Ralph Lauren Corporation,

Plaintiff,

v.

Factory Mutual Insurance Company,

Defendant.

CASE NO.:

COMPLAINT

Plaintiff, Ralph Lauren Corporation (“Ralph Lauren Corp.”), files this Complaint for damages and declaratory judgment against Defendant, Factory Mutual Insurance Company (“FMIC”), alleging the following:

I. INTRODUCTION

1. This diversity action for breach of contract, declaratory judgment, and violation of the New Jersey Consumer Fraud Act arises from FMIC’s improper investigation and refusal to pay Ralph Lauren Corp.’s claim for insurance coverage under an “all risks” insurance policy that FMIC sold to Ralph Lauren Corp.

2. Despite agreeing to cover Ralph Lauren Corp. for all risks of physical loss or damage to property resulting from any cause not excluded, as well as the resulting time element and extra expense losses, FMIC has refused to honor its contractual obligations in the face of a claim for which coverage is expressly provided. Instead, FMIC attempts to wrongfully shoehorn Ralph Lauren Corp.’s claim into a narrow and limited grant of coverage, while contending – without textual support – that all other coverage is excluded. Notwithstanding its conduct, FMIC must cover the loss sustained by Ralph Lauren Corp. that FMIC contractually agreed to insure.

II. PARTIES

3. Ralph Lauren Corp. is incorporated under the laws of the State of Delaware with its principal place of business at 650 Madison Avenue, New York, NY 10022. Ralph Lauren Corp. maintains corporate offices responsible for risk management and insurance in New Jersey.

4. FMIC is incorporated under the laws of the State of Rhode Island with its principal place of business in Johnston, Rhode Island.

III. JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, as the parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2) as a substantial portion of the events or omissions giving rise to Ralph Lauren Corp.'s claim occurred in this district, including the negotiation and delivery of the relevant insurance policy, as well as the submission of the claim at issue.

IV. FACTUAL BACKGROUND

7. Founded in 1967 by Mr. Ralph Lauren, Ralph Lauren Corp. is a global leader in the design, marketing, and distribution of premium lifestyle products, including apparel, footwear, accessories, home furnishings, fragrances and hospitality.

8. Ralph Lauren Corp.'s premier reputation has been built on over fifty years of outfitting a diverse portion of the market with exceptional products.

9. Ralph Lauren Corp. operates over 1,000 stores around the world.¹

¹ See <http://investor.ralphlauren.com/news-releases/news-release-details/ralph-lauren-reports-fourth-quarter-and-full-year-fiscal-2020> (last viewed August 6, 2020).

10. Prior to being forced to close due to COVID-19, hundreds of thousands of people visited Ralph Lauren Corp. stores every day.

11. FMIC sold an insurance policy to Ralph Lauren Corp.

12. While soliciting Ralph Lauren Corp.'s business, FMIC touted its "Market Leading Claims Service" as a key reason why Ralph Lauren Corp. should procure coverage from FMIC, claiming to "[f]ocus on **finding coverage** instead of exclusions" and "[f]air and **prompt** payment of losses". (Proposal dated May 1, 2019, attached as Exhibit B (bolded terms original).)

13. On information and belief, FMIC represents that it evaluates all claims in good faith, in a manner consistent with the plain language of the policy and pursuant to the applicable law governing the interpretation of the relevant policy.

14. The policy has an effective term of May 1, 2019 through May 1, 2020. (Policy No. 1051410, at RLCPolicy_0008, attached as Exhibit A (the "Policy").)

15. FMIC also issued a policy to Ralph Lauren Corp. for the term May 1, 2020 through May 1, 2021, which is substantively similar in all material respects relating to coverage to the Policy.

16. The Policy covers Ralph Lauren Corp.'s property against "ALL RISKS OF PHYSICAL LOSS OR DAMAGE, except as ... excluded ..." (Exhibit A, at RLCPolicy_0008.)

17. The Policy also affords coverage to Ralph Lauren Corp. for Time Element loss "directly resulting from physical loss or damage of the type insured ..." (Exhibit A, at RLCPolicy_0046.)

18. The Policy provides up to \$700 million in coverage per occurrence. (Exhibit A, at RLCPolicy_0011.)

19. FMIC agreed to cover Ralph Lauren Corp.’s risk of loss, in consideration of a substantial premium that was paid by Ralph Lauren Corp. (Exhibit A, at RLCPolicy_0008.)

A. COVID-19 Is a Deadly Communicable Disease

20. COVID-19 is a deadly communicable disease that, as of August 6, 2020, has already infected over 4.8 million people in the United States and caused more than 157,000 deaths.²

21. The Centers for Disease Control and Prevention (“CDC”) estimates that infection rates for COVID-19 are likely at least ten times higher than reported.³

22. There is still no effective vaccine for COVID-19.

23. The World Health Organization (“WHO”) has declared the COVID-19 outbreak a pandemic and President Trump has declared a nationwide emergency due to the public health emergency caused by the COVID-19 outbreak in the United States.

24. A pandemic, by definition, is an “an epidemic occurring worldwide”⁴

25. The incubation period for COVID-19—the time between exposure (becoming infected) and symptom onset—can be up to 14 days.⁵

26. During this period (also known as the “pre-symptomatic” period), infected persons can be contagious and disease transmission can occur before the infected person shows any symptoms or has any reason to believe they are infected.⁶

² See <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last viewed August 6, 2020).

³ See <https://www.nbcnews.com/health/health-news/cdc-says-covid-19-cases-u-s-may-be-10-n1232134> (last viewed August 6, 2020).

⁴ See <https://www.who.int/bulletin/volumes/89/7/11-088815/en/#:~:text=A%20pandemic%20is%20defined%20as,are%20not%20considered%20pandemics.>

⁵ See https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200402-sitrep-73-covid-19.pdf?sfvrsn=5ae25bc7_2 (last viewed August 6, 2020).

⁶ See https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200402-sitrep-73-covid-19.pdf?sfvrsn=5ae25bc7_2 (“In a small number of case reports and studies, pre-symptomatic transmission has been documented through contact tracing efforts and enhanced investigation of clusters of confirmed cases. This is supported by data suggesting that some people can test positive for COVID-19

27. Not only is COVID-19 spread by human-to-human transfer, but the WHO has confirmed that COVID-19 can exist on contaminated objects or surfaces.⁷

28. According to a study documented in *The New England Journal of Medicine*, COVID-19 was detectable in aerosols for up to three hours, up to four hours on copper, up to 24 hours on cardboard, and up to three days on plastic and stainless steel.⁸

29. Ralph Lauren Corp. uses all of these materials at its stores and in its ordinary course of business.

30. Individuals also can become infected with COVID-19 through indirect contact with surfaces or objects used by an infected person, whether they were symptomatic or not.⁹

31. COVID-19 also can spread through airborne transmission.¹⁰

32. The CDC published a study in July that concluded “droplet transmission was prompted by air-conditioned ventilation” that caused an outbreak among people who dined in the same air-conditioned restaurant.¹¹

from 1-3 days before they develop symptoms. Thus, it is possible that people infected with COVID-19 could transmit the virus before significant symptoms develop.”) (last viewed August 6, 2020).

⁷ See <https://www.who.int/news-room/commentaries/detail/modes-of-transmission-of-virus-causing-covid-19-implications-for-ipc-precaution-recommendations> (“[T]ransmission of the COVID-19 virus can occur by direct contact with infected people and indirect contact with surfaces in the immediate environment or with objects used on the infected person”) (last viewed August 6, 2020).

⁸ See <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces> (last viewed August 4, 2020); see also <https://www.who.int/news-room/commentaries/detail/modes-of-transmission-of-virus-causing-covid-19-implications-for-ipc-precaution-recommendations> (last viewed August 6, 2020).

⁹ Id.

¹⁰ See <https://academic.oup.com/cid/article-pdf/doi/10.1093/cid/ciaa939/33478095/ciaa939.pdf> (last viewed July 14, 2020); <https://academic.oup.com/cid/article-pdf/doi/10.1093/cid/ciaa939/33478095/ciaa939.pdf> (last viewed August 6, 2020).

¹¹ See https://wwwnc.cdc.gov/eid/article/26/7/20-0764_article (last viewed August 6, 2020).

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