

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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632ONHUDSON, LLC,

Plaintiff,

-against-

ASPEN AMERICAN INSURANCE COMPANY
and WKFC UNDERWRITING MANAGERS,

Defendants.
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Index No.:

Date Filed:

Plaintiff designates New York
County as the place of trial.

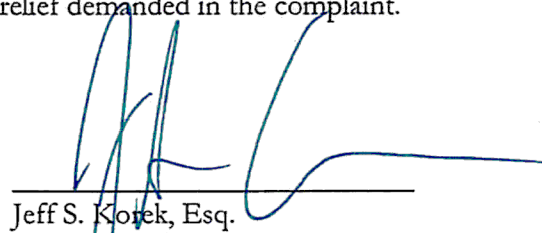
SUMMONS

Venue is based on where the
events giving rise to the claim
took place

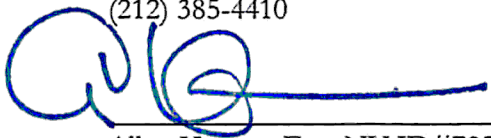
TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
August 14, 2020



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Melville, New York 11747

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X Index No.:
632ONHUDSON, LLC,

Plaintiff,

VERIFIED COMPLAINT

-against-

ASPEN AMERICAN INSURANCE COMPANY
and WKFC UNDERWRITING MANAGERS,

Defendants.

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Plaintiff, 632ONHUDSON (“632” or “Plaintiff”), by and through its undersigned attorneys, as and for its Verified Complaint against ASPEN AMERICAN INSURANCE COMPANY (“ASPEN”), and WKFC UNDERWRITING MANAGERS (“WKFC”), upon information and belief, alleges as follows:

INTRODUCTION

1. This action for breach of contract arises out of Defendants’ denial of 632’s claim for insurance coverage under its “all risk” policy for its significant business interruption losses and extra expenses suffered as a direct result of the city and statewide government shutdown orders designed to mitigate the COVID-19 pandemic by, in part, closing the insured premises and eliminating all or part of the insured’s business at the insured premises in order to save lives and protect property.
2. The losses, including the loss of use of the insured premises and loss of business income therefrom, were caused by these Executive Orders designed to mitigate the imminent threat to person and property posed by COVID-19, which is an unexcluded covered cause of loss

- under the subject “all risk” policy, which defines “covered cause of loss” as “direct physical loss” unless excluded or otherwise limited.
3. 632 also purchased with the policy coverage for business income and extra expense losses.
 4. 632 purchased commercial property insurance from ASPEN, produced, underwritten, and sold by WKFC, namely policy No. WKA FT00375-07 (the “Policy” attached as **Exhibit A**), for which it paid significant monthly premiums, and was in effect from April 24, 2019 to April 24, 2020. The Policy was renewed (“Renewed Policy” and together “Policies”) for another year in effect from April 25, 2020 to April 25, 2021, under policy No. WKA FT00375-08. (Renewed Policy attached as **Exhibit B**). For the convenience of the Court and easier reference, the pages of the Policies have been numbered.
 5. The Policies are identical in their terms, the only difference being that the Renewed Policy has extra coverage for equipment breakdown.
 6. The Policies cover business income and extra expenses losses for up to 12 months, with an annual limit of \$720,000; they provide coverage for business income losses due to the necessary suspension of the business operations at the insured premises and the loss of business income due to civil authority actions that prohibit access to the premises.
 7. By way of brief introduction, 632 owns a building known as 632 on Hudson, which was a dilapidated sausage factory that 632’s sole proprietor, Karen Lashinsky, adoringly labored to convert into what has grown, over the last twenty years, to become one of the most prominent event spaces in New York City. The building comprises six floors available for rent for private events or residential leasing (with the ground floor available for commercial leasing and floors three through five forming a triplex available for residential leasing as well as events), and has hosted a myriad of events, including weddings, photoshoots, product launches, productions, and chef demonstrations for all types of guests and groups, such as MTV and Netflix. The

venue is marked by artistically themed dining rooms, lounges, dens, bars, suites, decks, kitchens, a garden, and even a speakeasy scattered throughout the floors; all designed by Karen Lashinsky and exuding the vision she had for the space when she first walked into a building that to others was just a weary factory. One could argue the most prominent feature of the venue is the three story central atrium of the triplex anchored by a wraparound staircase from which guests can watch demonstrations, participate in ceremonies, or listen to music and dance. What sets 632's venue apart from many others, and what Karen Lashinsky takes pride in achieving, is that 632's venue is able to transform large, dynamic in-door gatherings and events into an intimate experience in a grand but beautiful and imaginative setting. The venue and many of the events it has hosted have been frequently featured in the *New York Times*, *New York Space*, *Weddings*, and *New York Living*. 632 maintains a website with photographs and descriptions of the property and the events it hosts at <http://632onhudson.com/>, which may help in visualizing the venue and imagining its experiences.

8. The thrust of the executive shutdown orders that closed non-essential businesses in New York City and prohibited non-essential gatherings of more than ten people has been to completely deprive Plaintiff the ability to use the covered property for its primary business purpose, which is renting the floors in the building for large events. Plaintiff has attempted to mitigate its damages by listing the upstairs triplex for a residential lease but the triplex remains unfilled due in part to the prohibition of conducting in-person showings of residences that remained in effect until June 22, 2020, when New York City entered phase two of reopening. *See* <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/RealEstateSummaryGuidance.pdf>. Further, 632 plans to offer "take out" food and alcohol from its ground floor, but this will likely also be unsuccessful and any profits marginal because 632 is not a restaurant

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