

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**SALUM RESTAURANT LTD d/b/a
SALUM RESTAURANT,**

Plaintiff,

v.

**THE TRAVELERS INDEMNITY
COMPANY,**

Defendant

Civil Action No. 3:20-cv-01034

COMPLAINT AND JURY
DEMAND

PLAINTIFF'S ORIGINAL COMPLAINT

I. INTRODUCTION

1. Plaintiff, Salum Restaurant Ltd. d/b/a Salum Restaurant (“Salum”), files this complaint against Defendant, The Travelers Indemnity Company (“Travelers”), for its denial of benefits for the business interruption sustained by Salum as a result of the “Stay Home Stay Safe” orders issued by Dallas County and the City of Dallas. These orders prohibited all dine-in services at restaurants in the County and within the City’s limits, and Salum’s business is offering dine-in fine dining experiences and catering services for formal events. Despite the extensive interruption of Salum’s business, Travelers summarily denied its claim while the “Stay Home Stay Safe” order was still in place.

II. PARTIES

2. Plaintiff, Salum Restaurant Ltd. d/b/a Salum Restaurant (“Salum”), is a limited partnership organized under the laws of Texas with its principal place of business at 4152 Cole Avenue, Texas 75204, Dallas County, Texas. Plaintiff Salum is authorized to do business in the State of Texas.

3. Defendant, The Travelers Indemnity Company, is a corporation organized under the laws of Connecticut, with its principal place of business at One Tower Square, Hartford, Connecticut 06183. Citation may be served through its registered agent for service of process at Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701-3218, Travis County, Texas.

4. At all times herein, Defendant acted by and through its duly authorized agents and servants, each acting within the course and scope of his or her employment.

III. JURISDICTION AND VENUE

5. Venue is proper in the Northern District of Texas pursuant 28 U.S.C.A. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of Texas and the insured premises that is the subject of the action is situated in the Northern District of Texas.

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because the amount in controversy is greater than \$75,000 and plaintiff and defendant are citizens of different states.

7. This Court has specific jurisdiction over Defendant as its activities were directed toward Texas and injuries complained of resulted from their activities in Texas. Defendant has a substantial connection with Texas and the requisite minimum contacts with Texas necessary to constitutionally permit the Court to exercise jurisdiction.

IV. FACTUAL ALLEGATIONS

A. Plaintiff Salum Obtains Insurance Coverage for Its Business from Defendant Travelers.

8. Plaintiff Salum provides fine dining services in Dallas, Texas. It is owned by Chef Abraham Salum. The restaurant specializes in fine cuisine and wine. It offers an exclusive dining experience in the restaurant setting. It is located in the center of Dallas County.

9. Travelers issued commercial policy number 680-7G01605A-20-42 to Salum for the policy period of January 14, 2020 to January 14, 2021, including Business Income (Extra Expense) Coverage Form (the “Policy”) for the property located at 4152 Cole Avenue #103, Dallas, Texas 75204; 1135 S. Lamar St., Dallas, Texas 75215; 7750 North Macarthur Blvd. Suite 120-352, Irving, Texas 75063; 2001 Ross Avenue Suite 325, Dallas, Texas 75201 (“Insured Premises”). This policy is attached hereto as Exhibit A. Salum has performed all of its obligations under the Policy, including faithfully paying policy premiums.

B. The Coronavirus 2019 Global Pandemic Causes Damage, Including in Dallas County.

10. The Coronavirus disease was first detected toward the end of 2019, emerging in Wuhan, China. The World Health Organization proposed the nomenclature COVID-19, standing for coronavirus disease 2019.¹

11. On January 30, 2020, the World Health Organization declared the virus a public health emergency of international concern. In February 2020, coronavirus deaths began to be reported outside of China. Throughout February 2020, Coronavirus infections were reported in a growing number of locations around the world, including in the Philippines, Japan, Europe, South Korea, Iran, Latin America, Sub-Saharan Africa, and the United States.

12. On March 11, 2020, the World Health Organization characterized the Coronavirus (COVID-19) as a pandemic. On March 13, 2020, a national emergency was declared in the United States of America. On March 15, 2020, the United States Centers for Disease Control and

¹ Cf. [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it). As used in this Petition, the term “Coronavirus” refers to the virus termed as Coronavirus disease 2019 (COVID-19), including without limitation the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and the term is used broadly, and references the global pandemic associated with the virus first detected in December 2019 in Wuhan, China.

Prevention advised no gatherings of 50 or more people in the United States. The next day, the President advised citizens to avoid groups of more than 10.

13. The Coronavirus has caused tens of thousands of deaths throughout the United States, with the death toll increasing every day, and the numbers of reported cases growing exponentially. The economy has been devastated by business interruptions in Dallas County, the State of Texas, the United States, and worldwide.

14. Coronavirus cases in Texas spiked in March 2020, and a growing number of municipalities issued quarantine directives. The numbers of reported Coronavirus cases have spread throughout Texas Counties, curtailing business, social, and economic activities throughout the State. Correspondingly, the entire nation experienced spikes in infections and deaths, with a growing number of citizens subjected to quarantine orders and business shutdowns.

15. The scientific community recognizes the Coronavirus as a cause of real physical loss and damage.

16. The Coronavirus is physically impacting public and private property, and physical spaces in communities around the world.

17. The global pandemic is exacerbated by the fact that the potentially deadly virus physically infects and stays on the surface of objects or materials for weeks. The duration of the virus' lethal staying power, and the conditions upon which the virus can continue to propagate and infect people, are known facts under continued scrutiny by the scientific community. The virus can physically infect and stay on surfaces for weeks, up to twenty-eight days under some estimates. Moreover, because of the ongoing Coronavirus pandemic, which is raging in Dallas County, a significant component of the public health crisis is the risk of continued contamination of the surface of objects and materials which could propagate infections. Therefore, the Coronavirus has

caused damage, including damage to property, as a result of the staying power of the virus and the communicability of disease from exposure to the surface of objects and materials.

18. For example, China, Italy, France, and Spain have implemented the cleaning and fumigating of public areas prior to allowing them to re-open publicly due to the intrusion of microbials.

19. The physical contamination of surfaces with communicable Coronavirus is a well-recognized cause of physical damage and a reason that civil authorities have issued quarantine orders.

C. The Civil Authorities Closed Plaintiff's Business, Causing a Cessation of Business Activity.

20. On March 19, 2020, Texas Governor Greg Abbott issued Executive Order No. GA-08 relating to COVID-19 preparedness and mitigation, which prohibited certain business activities in order to contain the Coronavirus.

21. Also on March 19, 2020, John W. Hellerstedt, M.D., the Commissioner of the Texas Department of State Health Services, in accordance with Section 81.082(d) of the Texas Health and Safety Code, declared a state of public health disaster for the entire State of Texas for the first time since 1901.

22. In March and April 2020, the Dallas County Commissioners Court issued disaster declarations and executive orders, commanding that individuals SHELTER IN PLACE, as a result of the Coronavirus. Dallas County officials first issued a disaster declaration related to the COVID-19 pandemic on March 12, 2020. On March 22, 2020, Dallas County Judge Clay Jenkins issued a "Stay Home Stay Safe" shelter-in-place order that went into effect at 11:59 pm on March 23, 2020.

23. This order closed all dine-in service in Dallas County restaurants and all events where catering services might be used. Specifically, as to restaurants, the order provided:

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