

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

RISING DOUGH, INC. (d/b/a MADISON SOURDOUGH), WILLY MCCOYS OF ALBERTVILLE LLC, WILLY MCCOYS OF ANDOVER LLC, WILLY MCCOYS OF CHASKA LLC, WILLY MCCOYS OF SHAKOPEE LLC, and WHISKEY JACKS OF RAMSEY LLC (d/b/a WILLY MCCOYS RAMSEY), individually and on behalf of all others similarly situated,

Plaintiffs,

v.

SOCIETY INSURANCE,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs Rising Dough, Inc. (d/b/a Madison Sourdough) (“Madison Sourdough”) and Willy McCoys of Albertville LLC, Willy McCoys of Andover LLC, Willy McCoys of Chaska LLC, Willy McCoys of Shakopee LLC (d/b/a McCoys Copper Pint), and Whiskey Jacks of Ramsey, LLC (d/b/a Willy McCoys Ramsey) (collectively “Willy McCoys”), individually and on behalf of the other members of the below-defined nationwide classes (collectively, the “Class”), bring this class action against Defendant Society Insurance, and in support thereof state the following:

I. NATURE OF THE ACTION

1. Plaintiff Madison Sourdough operates a mill, bakery, café and patisserie in Madison Wisconsin. Until the business interruption detailed herein, Madison Sourdough produced breads and pastries 360 days of the year, supplying not only its café with unique breads and pastries, but

also distributing the freshest bakery products to Madison’s finest restaurants, grocery stores, and coffee shops. Madison Sourdough began its days early so its customers across the city could experience this culinary craft at its best. Madison Sourdough specializes in naturally leavened, *i.e.* sourdough, breads using Wisconsin grown wheat, rye, and corn. Its special, yeast-leavened breakfast pastries are called Viennoiserie and are based on classic French techniques. Madison Sourdough laminates all of its Viennoiserie with premium Wisconsin butter and enriches its doughs with local eggs and milk. Its café, which seats approximately 80 people, serves lunch and breakfast throughout the week, employing chefs, servers, and dishwashers.

2. Plaintiffs Willy McCoys is a 1920’s prohibition-themed group of taverns for the “everyday Joes” with seven locations throughout the Twin Cities metropolitan region of Minnesota, including Albertville, Andover, Shakopee, Ramsey, Champlin, Chaska, and Bloomington, Minnesota.¹ Willy McCoys also provides event services, including on-site event spaces for banquets and other community events, as well as off-site catering. As an established neighborhood restaurant and bar for patrons in the local community, Willy McCoys has earned a positive reputation in the Twin Cities metro region for providing consistent, quality food and services. Based upon this reputation, Willy McCoys has developed a steady and profitable client base, and strives to maintain its reputation and the services it provides to the community and its patrons.

3. To protect their businesses in the event that they suddenly had to suspend operations for reasons outside of their control, or in order to prevent further property damage, Plaintiffs purchased insurance coverage from Society Insurance, including special property coverage, as set

¹ The Champlin and Bloomington locations did not have insurance policies with Society Insurance, and therefore, have not been named as parties to this suit.

forth in Society Insurance’s Businessowner’s Special Property Coverage Form (Form TBP2 05-15) (“Special Property Coverage Form”).

4. Society Insurance’s Special Property Coverage Form provides “Business Income” coverage, which promises to pay for loss due to the necessary suspension of operations following damage to property.

5. Society Insurance’s Special Property Coverage Form also provides “Civil Authority” coverage, which promises to pay for loss caused by the action of a civil authority that prohibits access to the insured premises.

6. Society Insurance’s Special Property Coverage Form provides additional “Contamination” coverage that pays for the actual loss of business income and extra expense caused by “‘Contamination’ that results in an action by a public health or other governmental authority that prohibits access to the described premises or production of your product.” The policy broadly defines a covered loss due to “Contamination” as occurring in a variety of circumstances, including an action by a public health or other governmental authority that prohibits access to the described premises and adverse “publicity” resulting from the discovery or suspicion of “Contamination.” The Special Property Coverage Form defines “Contamination” as “a defect, deficiency, inadequacy or dangerous condition in your products, merchandise or premises.”

7. Society Insurance’s Special Property Coverage Form also provides “Extra Expense” coverage, which promises to pay the expense incurred to minimize the suspension of business and to continue operations.

8. Society Insurance’s Special Property Coverage Form, under a section entitled “Duties in the Event of Loss or Damage” mandates that Society’s insured “must see that the following are done in the event of loss or damage to Covered Property . . . [t]ake all reasonable

steps to protect the Covered Property from further damage and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim.”

9. Unlike many policies that provide Business Income (also referred to as “business interruption”) coverage, Society Insurance’s Special Property Coverage Form does not include, and is not subject to, any exclusion for losses caused by viruses or communicable diseases.

10. Plaintiffs Willy McCoys were forced to suspend or reduce business at their Willy McCoys taverns due to COVID-19 (a.k.a. the “coronavirus” or “SARS-CoV-2”) and the resultant Executive Orders issued by the Governor of Minnesota mandating the closure of businesses like Willy McCoys taverns for on-site services, as well as in order to take necessary steps to prevent further damage and minimize the suspension of business and continue operations.

11. Plaintiff Madison Sourdough was, likewise, forced to suspend or reduce business due to COVID-19 and the resultant Executive Orders by the Governor of Wisconsin requiring the closure of businesses like Madison Sourdough, as well as in order to take necessary steps to prevent further damage and minimize the suspension of business and continue operations.

12. Upon information and belief, Society Insurance has, on a widescale and uniform basis, refused to pay its insureds under its Business Income, Civil Authority, Contamination, Extra Expense, and Sue and Labor coverages for losses suffered due to COVID-19, any executive orders by civil authorities that have required the necessary suspension of business, and any efforts to prevent further property damage or to minimize the suspension of business and continue operations. Indeed, Society Insurance has denied Plaintiffs Willy McCoys’ claims under its Society Insurance policy.

II. JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because Plaintiffs Willy McCoys and Defendant are citizens of different states, and because (a) the Class

consists of at least 100 members, (b) the amount in controversy exceeds \$5,000,000 exclusive of interest and costs, and (c) no relevant exceptions apply to this claim.

14. Venue is proper in this District under 28 U.S.C. § 1391 because Defendant resides in this district and a substantial portion of the acts and conduct giving rise to the claims occurred within the District.

III. THE PARTIES

Plaintiffs

15. Madison Sourdough is a Wisconsin corporation, with its principal place of business in Madison, Wisconsin. Madison Sourdough owns and operates a mill, bakery, café, and patisserie, all of which are located in Madison, Wisconsin

16. Willy McCoys of Albertville LLC (“Willy McCoys Albertville”) is a Minnesota limited liability company, with its principal place of business in Albertville, Minnesota. Willy McCoys Albertville owns and operates a restaurant and bar, Willy McCoys, which is located in Albertville, Minnesota.

17. Willy McCoys of Andover LLC (“Willy McCoys Andover”) is a Minnesota limited liability company, with its principal place of business in Andover, Minnesota. Willy McCoys Andover owns and operates a restaurant and bar, Willy McCoys, which is located in Andover, Minnesota.

18. Willy McCoys of Chaska LLC (“Willy McCoys Chaska”) is a Minnesota limited liability company, with its principal place of business in Chaska, Minnesota. Willy McCoys Chaska owns and operates a restaurant and bar, Willy McCoys Chaska, which is located in Chaska, Minnesota.

19. Willy McCoys of Shakopee LLC (d/b/a McCoys Copper Pint) (“McCoys Shakopee”) is a Minnesota limited liability company, with its principal place of business in

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