

IN THE DISTRICT COURT OF BRYAN COUNTY  
STATE OF OKLAHOMA

FILED  
BRYAN COUNTY, OKLAHOMA  
DISTRICT COURT CLERK

CHOCTAW NATION OF OKLAHOMA

Plaintiff,

v.

MAR 24 2020

DONNA ALEXANDER  
COURT CLERK

BY *Taylor Nelson* Deputy

- (1) LEXINGTON INSURANCE COMPANY;
- (2) UNDERWRITERS AT LLOYD'S - SYNDICATES; ASC1414, XLC 2003, TAL 1183, MSP 318, ATL1861, KLN 510, AGR 3268;
- (3) UNDERWRITERS AT LLOYD'S - SYNDICATE: CNP 4444;
- (4) UNDERWRITERS AT LLOYD'S - ASPEN SPECIALTY INSURANCE COMPANY;
- (5) UNDERWRITERS AT LLOYD'S - SYNDICATES: KLN 0510, ATL 1861, ASC 1414, QBE 1886, MSP 0318, APL 1969, CHN 2015, XLC 2003;
- (6) UNDERWRITERS AT LLOYD'S - SYNDICATE BRT 2987;
- (7) UNDERWRITERS AT LLOYD'S - SYNDICATES: KLN 0510, TMK 1880, BRT 2987, BRT 2988, CNP 4444, ATL 1861, NEON WORLDWIDE PROPERTY CONSORTIUM, AUW 0609, TAL 1183, AUL 1274;
- (8) HOMELAND INSURANCE COMPANY OF NY (ONE BEACON);
- (9) HALLMARK SPECIALTY INSURANCE COMPANY;
- (10) ENDURANCE WORLDWIDE INSURANCE LTD T/AS SOMPO INTERNATIONAL;
- (11) ARCH SPECIALTY INSURANCE COMPANY;
- (12) EVANSTON INSURANCE COMPANY;
- (13) ALLIED WORLD NATIONAL ASSURANCE COMPANY;
- (14) LIBERTY MUTUAL FIRE INSURANCE COMPANY;
- (15) XL INSURANCE AMERICA, INC.;

Case No. LV-20-42

Defendants.

PETITION FOR DECLARATORY JUDGMENT

Plaintiff, the Choctaw Nation of Oklahoma, an Indian tribe, through undersigned counsel, respectfully represents and requests:

**PARTIES**

1. Plaintiff, the Choctaw Nation of Oklahoma (the "Nation") is an Indian tribe, with its headquarters located in Durant, Oklahoma. The Nation is not a citizen for purposes of federal diversity jurisdiction.
2. Upon information and belief, Defendant Lexington Insurance Company is a foreign insurer doing business in the State of Oklahoma.
3. Upon information and belief, Defendant Underwriters at Lloyd's are syndicates of individual underwriters that share respective and several liability through a representative underwriter but do not share citizenship.
4. Upon information and belief, Defendant Homeland Insurance Company of NY (One Beacon) is a foreign insurer doing business in the State of Oklahoma.
5. Upon information and belief, Defendant Hallmark Specialty Insurance Company is an Oklahoma insurer.
6. Upon information and belief, Defendant Endurance Worldwide Insurance Ltd t/as Sompo International is a foreign insurer doing business in the State of Oklahoma.
7. Upon information and belief, Defendant Arch Specialty Insurance Company is a foreign insurer doing business in the State of Oklahoma.
8. Upon information and belief, Defendant Evanston Insurance Company is a foreign insurer doing business in the State of Oklahoma.
9. Upon information and belief, Defendant Allied World National Assurance Company is a foreign insurer doing business in the State of Oklahoma.

10. Upon information and belief, Defendant Liberty Mutual Fire Insurance Company is a foreign insurer doing business in the State of Oklahoma.

11. Upon information and belief, Defendant XL Insurance America, Inc. (together with Defendants in paragraphs 2-10 as "Defendant Insurers") is foreign insurer doing business in the State of Oklahoma.

12. Defendant Insurers insure the Nation's property located within the State of Oklahoma.

13. Venue is proper pursuant to 12 O.S. Sec. 137.

### **FACTUAL BACKGROUND**

14. The Nation, as the named insured, owns and operates property used in connection with multiple commercial businesses and services located within the State of Oklahoma (the "Nation's Property").

15. Alliant Specialty Insurance Services, Inc./Alliant Insurance Services, Inc./Alliant Underwriting Solutions/Tribal First, using the name Tribal First ("Alliant") represented to the Nation it was providing underwriting, claims/risk management, and administrative services to the Nation. Alliant issued TPIP Policy No. 017471589/06 (Dec 17) 9596, with "all risk" benefits, for a policy period from July 1, 2019 to July 1, 2020. Based upon such representations and Alliant's "Tribal Property Insurance Program Proposal," which the Nation relied upon, Alliant obtained multiple policies issued by Defendant Insurers, providing the "all risk" benefits covering the Nation's Properties. Some, but not all, of the benefits provided include business interruption, interruption by civil authority, limitations of ingress and egress, and extra expense. The Nation has paid all premiums for the coverage.

16. On or about March of 2020, the United States of America became infected by COVID 19 resulting in a pandemic. As a result of this pandemic and infection, the Nation's Property sustained

direct physical loss or damage and will continue to sustain direct physical loss or damage covered by the policies, including but not limited to business interruption, extra expense, interruption by civil authority, limitations on ingress and egress, and expenses to reduce loss. As a direct result of this pandemic and infection, the Nation's Property has been damaged, as described above, and cannot be used for its intended purpose.

### **CAUSE OF ACTION – DECLARATORY JUDGMENT**

17. The previous paragraphs (1-16) are incorporated here as if restated in full.

18. This is an action for declaratory judgment pursuant 12 O.S. § 1651.

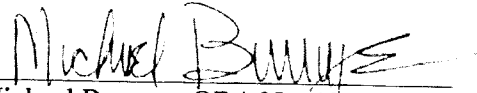
19. For the sake of clarity, and in the event any Defendant seeks to remove this case and/or claims that any federal claim or question is raised by this petition or any other paper, the Nation hereby expressly disavows any such federal claim or question as being part of this lawsuit. The Nation's claims are based in contract and insurance laws under Oklahoma law. The Nation makes no claim with regard to providing healthcare in this lawsuit.

20. The Nation seeks a declaratory judgment from this Court declaring the policies cover the Nation's losses and expenses related to the COVID-19 pandemic and infection and the Defendant Insurers are responsible for said losses and expenses.

### **PRAYER FOR RELIEF**

WHEREFORE, the Nation seeks a declaratory judgment from this Court declaring the policies cover the Nation's losses and expenses related to the COVID-19 pandemic and infection and the Defendant Insurers are responsible for said losses and expenses and such further relief which may be appropriate.

Respectfully submitted,



Michael Burrage, OBA No. 1350  
Reggie Whitten, OBA No. 9576  
J. Revell Parrish, OBA No. 30205  
Patricia A. Sawyer, OBA No. 30712  
Austin Vance, OBA No. 33294  
J. Renley Dennis, OBA No. 33160  
**WHITTEN BURRAGE LAW FIRM**  
512 North Broadway Avenue, Ste 300  
Oklahoma City, OK 73102  
Telephone (405) 516-7800  
Facsimile (405) 516-7859  
[mburrage@whittenburragelaw.com](mailto:mburrage@whittenburragelaw.com)  
[rwhitten@whittenburragelaw.com](mailto:rwhitten@whittenburragelaw.com)  
[rparrish@whittenburragelaw.com](mailto:rparrish@whittenburragelaw.com)  
[psawyer@whittenburragelaw.com](mailto:psawyer@whittenburragelaw.com)  
[avance@whittenburragelaw.com](mailto:avance@whittenburragelaw.com)  
[jdennis@whittenburragelaw.com](mailto:jdennis@whittenburragelaw.com)