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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MARK GERMACK DDS, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

THE DENTISTS INSURANCE COMPANY,

Defendant.

No.

COMPLAINT—CLASS ACTION

JURY DEMAND

**I. INTRODUCTION**

Plaintiff, Mark Germack DDS (“Germack”), individually and on behalf of all other similarly situated members of the defined national class and the defined Washington subclasses (the “Class Members”), by and through the undersigned attorneys, brings this class action against Defendant The Dentists Insurance Company (“Defendant” or “TDIC”) and alleges as follows based on personal knowledge and information and belief:

**II. JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because at least one Class member is of diverse citizenship from Defendant, there are 100 or more Class members nationwide, and the aggregate amount in

1 controversy exceeds \$5,000,000. The Court has supplemental jurisdiction over Plaintiff's state  
2 law claims under 28 U.S.C. § 1367.

3 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(3) because the  
4 Court has personal jurisdiction over Defendant, a substantial portion the alleged wrongdoing  
5 occurred in this District and the state of Washington, and Defendant has sufficient contacts with  
6 this District and the state of Washington.  
7

8 3. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.  
9 §1391(b)(2) because a substantial part of the events or omissions giving rise to the claims at  
10 issue in this Complaint arose in this District. Plaintiff's place of business is located in Seattle,  
11 Washington, King County. This action is therefore appropriately filed in the Seattle Division  
12 because a substantial portion of the events giving rise to this lawsuit arose in King County.  
13

14 **III. PARTIES**

15 4. Plaintiff Germack owns and operates a dentistry practice located at 720 Olive  
16 Way Ste. 835, Seattle, WA 98101.

17 5. Defendant is an insurance carrier incorporated in California and whose  
18 headquarters are located in Sacramento, California.  
19

20 **IV. NATURE OF THE CASE**

21 6. Due to COVID-19 and a state-ordered mandated closure, Plaintiff cannot provide  
22 dental services. Plaintiff intended to rely on its business insurance to keep the business operating  
23 as a going concern. This lawsuit is filed to ensure that Plaintiff and other similarly-situated  
24 policyholders receive the insurance benefits to which they are entitled and for which they paid.  
25  
26

1 7. TDIC issued one or more insurance policies to Plaintiff, including an “all risk”  
2 Businessowners Property Coverage and related endorsements, insuring Plaintiff’s property and  
3 business practice and other coverages at all relevant times.

4 8. Plaintiff’s business property includes property owned and/or leased by Plaintiff  
5 and used for general business purposes for the specific purpose of dental and other related  
6 business activities.

7 9. TDIC Businessowners Property Coverage promises to pay Plaintiff for risks of  
8 “[a]ll risk of direct physical loss” to covered property and includes coverage for risks of both  
9 “loss of or damage to” covered property.

10 10. TDIC’s Businessowners Property Coverage provides Plaintiff with Business  
11 Income Coverage, Extra Expense Coverage, Extended Business Income Coverage and Civil  
12 Authority Coverage.

13 11. Plaintiff paid all premiums for the coverage when due.

14 12. On or about January 2020, the United States of America saw its first cases of  
15 persons infected by COVID-19, which has been designated a worldwide pandemic.

16 13. In light of this pandemic, Washington Governor Jay Inslee issued certain  
17 proclamations and orders affecting many persons and businesses in Washington, whether  
18 infected with COVID-19 or not, requiring certain public health precautions. Among other things,  
19 Governor Inslee’s “Stay Home, Stay Healthy” order required the closure of all non-essential  
20 businesses, including Plaintiff’s business.

21 14. By order of Governor Inslee, dentists including Plaintiff were prohibited from  
22 practicing dental services but for urgent and emergency procedures.

1           15.     Governor Inslee’s “PROCLAMATION BY THE GOVERNOR AMENDING  
2 PROCLAMATION 20-05: 20-24 Restrictions on Non Urgent Medical Procedures,” dated March  
3 19, 2020, also provides, in part:

4           WHEREAS, the health care person protective equipment supply chain in  
5 Washington State has been severely disrupted by the significant increased use of  
6 such equipment worldwide, such that there are now critical shortages of this  
7 equipment for health care workers. To curtail the spread of the COVID-19  
8 pandemic in Washington State and to protect our health care workers as they  
9 provide health care services, it is necessary to immediately prohibit all hospitals,  
10 ambulatory surgery centers, and dental orthodontic, and endodontic offices in  
11 Washington State from providing health care services, procedures and surgeries  
12 that require personal protective equipment, which if delayed, are not anticipated  
13 to cause harm to the patient within the next three months.

14           16.     No COVID-19 virus has been detected on Plaintiff’s business premises.

15           17.     Plaintiff’s property has sustained direct physical loss and/or damages related to  
16 COVID-19 and/or the proclamations and orders.

17           18.     Plaintiff’s property will continue to sustain direct physical loss or damage covered  
18 by the TDIC policy or policies, including but not limited to business interruption, extra expense,  
19 interruption by civil authority, and other expenses.

20           19.     Plaintiff’s property cannot be used for its intended purposes.

21           20.     As a result of the above, Plaintiff has experienced and will experience loss  
22 covered by the TDIC policy or policies.

23           21.     Plaintiff called its insurance broker to inquire about business interruption  
24 coverage under its business coverage policy and received a responsive email stating “there is no  
25 coverage for a pandemic.”  
26

1 22. TDIC notified its policyholders, including Plaintiff, by letter dated April 1, 2020,  
2 that “any Business Income losses or Extra Expenses that are incurred as a result of COVID-19  
3 outbreaks are specifically excluded[.]”

4 23. Upon information and belief, TDIC has denied and will deny coverage.  
5

6 **V. CLASS ACTION ALLEGATIONS**

7 24. This matter is brought by Plaintiff on behalf of itself and those similarly situated,  
8 under Federal Rules of Civil Procedure 23(b)(1), 23(b)(2), and 23(b)(3).

9 25. The Classes and Subclasses that Plaintiff seeks to represent are defined as:

10 A. ***Business Income Coverage Breach of Contract Class:*** All persons and  
11 entities in the United States insured under a TDIC policy with Business Income Coverage  
12 who suffered a suspension of their business at the covered premises related to COVID-19  
13 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities  
14 and whose Business Income claim has been denied by TDIC.  
15

16 B. ***Business Income Coverage Breach of Contract Washington Subclass:***  
17 All persons and entities in the State of Washington insured under a TDIC policy with  
18 Business Income Coverage who suffered a suspension of their business at the covered  
19 premises related to COVID-19 and/or orders issued by Governor Inslee, and/or other civil  
20 authorities and whose Business Income claim has been denied by TDIC.  
21

22 C. ***Business Income Coverage Declaratory Relief Class:*** All persons and  
23 entities in the United States insured under a TDIC policy with Business Income Coverage  
24 who suffered a suspension of their business at the covered premises related to COVID-19  
25 and/or orders issued by Governor Inslee, other Governors, and/or other civil authorities.  
26

1           D.     ***Business Income Coverage Declaratory Relief Washington Subclass:*** All  
2 persons and entities in the State of Washington insured under a TDIC policy with  
3 Business Income Coverage who suffered a suspension of their business at the covered  
4 premises related to COVID-19 and/or orders issued by Governor Inslee, and/or other civil  
5 authorities.

6  
7           E.     ***Extra Expense Breach of Contract Class:*** All persons and entities in the  
8 United States insured under a TDIC policy with Extra Expense coverage who incurred  
9 expenses while seeking to minimize losses from the suspension of business at the covered  
10 premises in connection with COVID-19 and/or orders issued by Governor Inslee, other  
11 Governors, and/or other civil authorities and whose Extra Expense claim has been denied  
12 by TDIC.

13  
14           F.     ***Extra Expense Breach of Contract Washington Subclass:*** All persons  
15 and entities in the State of Washington insured under a TDIC policy with Extra Expense  
16 coverage who incurred expenses while seeking to minimize losses from the suspension of  
17 business at the covered premises in connection with COVID-19 and/or orders issued by  
18 Governor Inslee, and/or other civil authorities and whose Extra Expense claim has been  
19 denied by TDIC.

20  
21           G.     ***Extra Expense Declaratory Relief Class:*** All persons and entities in the  
22 United States insured under a TDIC policy with Extra Expense coverage who incurred  
23 expenses while seeking to minimize losses from the suspension of their business at the  
24 covered premises in connection with COVID-19 and/or orders issued by Governor Inslee,  
25 other Governors, and/or other civil authorities.  
26

1           H.     ***Extra Expense Declaratory Relief Washington Subclass:*** All persons and  
2 entities in the State of Washington insured under a TDIC policy with Extra Expense  
3 coverage who incurred expenses while seeking to minimize losses from the suspension of  
4 their business at the covered premises in connection with COVID-19 and/or orders issued  
5 by Governor Inslee, and/or other civil authorities.  
6

7           I.     ***Extended Business Income Breach of Contract Class:*** All persons and  
8 entities in the United States insured under a TDIC policy with Extended Business Income  
9 coverage who suffered a suspension of their business at the covered premises related to  
10 COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or other civil  
11 authorities and whose Extended Business Income claim has been denied by TDIC.  
12

13           J.     ***Extended Business Income Breach of Contract Washington Subclass:***  
14 All persons and entities in the State of Washington insured under a TDIC policy with  
15 Extended Business Income coverage who suffered a suspension of their business at the  
16 covered premises related to COVID-19 and/or orders issued by Governor Inslee, and/or  
17 other civil authorities and whose Extended Business Income claim has been denied by  
18 TDIC.  
19

20           K.     ***Extended Business Income Declaratory Relief Class:*** All persons and  
21 entities in the United States insured under a TDIC policy with Extended Business Income  
22 coverage who suffered a suspension of their business at the covered premises due to  
23 COVID-19 related to COVID-19 and/or orders issued by Governor Inslee, other  
24 Governors, and/or other civil authorities.  
25

26           L.     ***Extended Business Income Declaratory Relief Washington Subclass:*** All  
persons and entities in the State of Washington insured under a TDIC policy with

1 Extended Business Income coverage who suffered a suspension of their business at the  
2 covered premises due to COVID-19 related to COVID-19 and/or orders issued by  
3 Governor Inslee, and/or other civil authorities

4 M. **Civil Authority Breach of Contract Class:** All persons and entities in the  
5 United States insured under a TDIC policy with Civil Authority coverage who suffered a  
6 loss of business income and/or extra expense related to the impact of COVID-19 and/or  
7 orders issued by Governor Inslee, other Governors, and/or other civil authorities and  
8 whose Civil Authority claim has been denied by TDIC.  
9

10 N. **Civil Authority Breach of Contract Washington Subclass:** All persons  
11 and entities in the State of Washington insured under a TDIC policy with Civil Authority  
12 coverage who suffered a loss of business income and/or extra expense related to the  
13 impact of COVID-19 and/or orders issued by Governor Inslee, and/or other civil  
14 authorities and whose Civil Authority claim has been denied by TDIC.  
15

16 O. **Civil Authority Declaratory Relief Class:** All persons and entities in the  
17 United States insured under a TDIC policy with Civil Authority coverage who suffered a  
18 loss of business income and/or extra expense related to COVID-19 and/or orders issued  
19 by Governor Inslee, other Governors, and/or other civil authorities.  
20

21 P. **Civil Authority Declaratory Relief Washington Subclass:** All persons and  
22 entities in the State of Washington insured under a TDIC policy with Civil Authority  
23 coverage who suffered a loss of business income and/or extra expense related to the  
24 impact of COVID-19 19 and/or orders issued by Governor Inslee, and/or other civil  
25 authorities.  
26



1           26. Excluded from the Classes and Subclasses are Defendant’s officers, directors, and  
2 employees; the judicial officers and associated court staff assigned to this case; and the  
3 immediate family members of such officers and staff. Plaintiff reserves the right to amend the  
4 Class definition based on information obtained in discovery.

5           27. This action may properly be maintained on behalf of each proposed Class under  
6 the criteria of Rule 23 of the Federal Rules of Civil Procedure.

7           28. **Numerosity:** The members of the Class are so numerous that joinder of all  
8 members would be impractical. Plaintiff is informed and believes that the proposed Class  
9 contains thousands of members. The precise number of class members can be ascertained  
10 through discovery, which will include Defendant’s records of policyholders.

11           29. **Commonality and Predominance:** Common questions of law and fact  
12 predominate over any questions affecting only individual members of the Class. Common  
13 questions include, but are not limited to, the following:  
14

15           A. Whether the class members suffered covered losses based on common  
16 policies issued to members of the Class;

17           B. Whether TDIC acted in a manner common to the class and wrongfully  
18 denied claims for coverage relating to COVID-19 and/or orders issued by Governor  
19 Inslee, other Governors, and/or other civil authorities;

20           C. Whether Business Income coverage in TDIC’s policies of insurance  
21 applies to a suspension of practice relating to COVID-19 and/or orders issued by  
22 Governor Inslee, other Governors, and/or other civil authorities;  
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1 D. Whether Extra Expense coverage in TDIC's policies of insurance applies  
2 to efforts to minimize a loss relating to COVID-19 and/or orders issued by Governor  
3 Inslee, other Governors, and/or other civil authorities;

4 E. Whether Extended Business Income coverage in TDIC's policies of  
5 insurance applies to a suspension of practice relating to COVID-19 and/or orders issued  
6 by Governor Inslee, other Governors, and/or civil authorities;

7 F. Whether Civil Authority coverage in TDIC's policies of insurance applies  
8 to a suspension of practice relating to COVID-19 and/or orders issued by Governor  
9 Inslee, other Governors, and/or civil authorities;

10 G. Whether TDIC has breached its contracts of insurance through a blanket  
11 denial of all claims based on business interruption, income loss or closures related to  
12 COVID-19 and/or orders issued by Governor Inslee, other Governors, and/or other civil  
13 authorities;

14 H. Whether, because of Defendant's conduct, Plaintiff and the class members  
15 have suffered damages; and if so, the appropriate amount thereof; and

16 I. Whether, because of Defendant's conduct, Plaintiff and the class members  
17 are entitled to equitable and declaratory relief, and if so, the nature of such relief.

18  
19  
20 30. **Typicality:** Plaintiff's claims are typical of the claims of the members of the  
21 classes. Plaintiff and all the members of the classes have been injured by the same wrongful  
22 practices of TDIC. Plaintiff's claims arise from the same practices and course of conduct that  
23 give rise to the claims of the members of the Class and are based on the same legal theories.

24  
25 31. **Adequacy:** Plaintiff will fully and adequately assert and protect the interests of  
26 the classes and has retained class counsel who are experienced and qualified in prosecuting class

1 actions. Neither Plaintiff nor its attorneys have any interests contrary to or in conflict with the  
2 Class.

3           **32. Federal Rule of Civil Procedure 23(b)(1), the Risk of Inconsistent or Varying**  
4 **Adjudications and Impairment to Other Class Members' Interests:** Plaintiff seeks  
5 adjudication as to the interpretation, and resultant scope, of Defendant's policies, which are  
6 common to all members of the class. The prosecution of separate actions by individual members  
7 of the classes would risk inconsistent or varying interpretations of those policy terms and create  
8 inconsistent standards of conduct for Defendant. The policy interpretations sought by Plaintiff  
9 could also impair the ability of absent class members to protect their interests.  
10

11           **33. Federal Rule of Civil Procedure 23(b)(2), Declaratory and Injunctive Relief:**  
12 Defendant acted or refused to act on grounds generally applicable to Plaintiff and other members  
13 of the proposed classes making injunctive relief and declaratory relief appropriate on a classwide  
14 basis.  
15

16           **34. Federal Rule of Civil Procedure 23(b)(3), Superiority:** A class action is  
17 superior to all other available methods of the fair and efficient adjudication of this lawsuit. While  
18 the aggregate damages sustained by the classes are likely to be in the millions of dollars, the  
19 individual damages incurred by each class member may be too small to warrant the expense of  
20 individual suits. Individual litigation creates a risk of inconsistent and/or contradictory decisions  
21 and the court system would be unduly burdened by individual litigation of such cases. A class  
22 action would result in a unified adjudication, with the benefits of economies of scale and  
23 supervision by a single court.  
24  
25  
26

1 VI. CAUSES OF ACTION

2 Count One—Declaratory Judgment

3 *(Brought on behalf of the Business Income Coverage Declaratory Relief Class,*  
4 *Business Income Coverage Declaratory Relief Washington Subclass, Extended Business*  
5 *Income Declaratory Relief Class, Extended Business Income Declaratory Relief Washington*  
6 *Subclass, Civil Authority Declaratory Relief Class, Civil Authority Declaratory Relief*  
7 *Washington Subclass, Extra Expense Declaratory Relief Class, and Extra Expense*  
8 *Declaratory Relief Washington Subclass)*

9 35. Previous paragraphs alleged are incorporated herein.

10 36. This is a cause of action for declaratory judgment pursuant to the Declaratory  
11 Judgment Act, codified at 28 U.S.C. § 2201.

12 37. Plaintiff brings this cause of action on behalf of the Business Income Coverage  
13 Declaratory Relief Class, Business Income Coverage Declaratory Relief Washington Subclass,  
14 Extended Business Income Declaratory Relief Class, Extended Business Income Declaratory  
15 Relief Washington Subclass, Civil Authority Declaratory Relief Class, Civil Authority  
16 Declaratory Relief Washington Subclass, Extra Expense Declaratory Relief Class, and Extra  
17 Expense Declaratory Relief Washington Subclass.

18 38. Plaintiff seeks a declaratory judgment declaring that Plaintiff's and class members  
19 losses and expenses resulting from the interruption of their business are covered by the Policy.

20 39. Plaintiff seeks a declaratory judgment declaring that TDIC is responsible for  
21 timely and fully paying all such claims.

22 Count Two—Breach of Contract

23 *(Brought on behalf of the Business Income Coverage Breach of Contract Class,*  
24 *Business Income Coverage Breach of Contract Washington Subclass, Extended Business*  
25 *Income Breach of Contract Class, Extended Business Income Breach of Contract Washington*  
26 *Subclass, Civil Authority Breach of Contract Class, Civil Authority Breach of Contract*  
*Washington Subclass, Extra Expense Breach of Contract Class, and Extra Expense Breach of*  
*Contract Washington Subclass)*

1 40. Previous paragraphs alleged are incorporated herein.

2 41. Plaintiff brings this cause of action on behalf of the Business Income Coverage  
3 Breach of Contract Class, Business Income Coverage Breach of Contract Washington Subclass,  
4 Extended Business Income Breach of Contract Class, Extended Business Income Breach of  
5 Contract Washington Subclass, Civil Authority Breach of Contract Class, Civil Authority Breach  
6 of Contract Washington Subclass, Extra Expense Breach of Contract Class, and Extra Expense  
7 Breach of Contract Washington Subclass.  
8

9 42. The Policy is a contract under which Plaintiff and the class paid premiums to  
10 TDIC in exchange for TDIC's promise to pay Plaintiff and the class for all claims covered by the  
11 Policy.

12 43. Plaintiff has paid its insurance premiums.

13 44. Upon information and belief, TDIC denied coverage for other similarly situated  
14 policyholders.  
15

16 45. Denying coverage for the claim is a breach of the insurance contract.

17 46. Plaintiff is harmed by the breach of the insurance contract by TDIC.

18 **VII. PRAYER**

19 1. A declaratory judgment that the policy or policies cover Plaintiff's losses and  
20 expenses resulting from the interruption of Plaintiff's business related to COVID-19 and/or  
21 orders issued by Governor Inslee, other Governors, and/or other authorities.  
22

23 2. A declaratory judgment that the defendant is responsible for timely and fully  
24 paying all such losses.

25 3. Damages.

26 4. Pre- and post-judgment interest at the highest allowable rate.

- 1 5. Reasonable attorney fees and costs.  
2 6. Such further and other relief as the Court shall deem appropriate.

3 **VIII. JURY DEMAND**

4 Plaintiff demands a jury trial on all claims so triable.

5 DATED this 30th day of April, 2020.

6 KELLER ROHRBACK L.L.P.

7  
8 By: s/ Ian S. Birk

9 By: s/ Lynn L. Sarko

10 By: s/ Gretchen Freeman Cappio

11 By: s/ Irene M. Hecht

12 By: s/ Maureen Falecki

13 By: s/ Amy Williams-Derry

14 By: s/ Nathan Nanfelt

15 Ian S. Birk, WSBA #31431

16 Lynn L. Sarko, WSBA #16569

17 Gretchen Freeman Cappio, WSBA #29576

18 Irene M. Hecht, WSBA #11063

19 Maureen Falecki, WSBA #18569

20 Amy Williams-Derry, WSBA #28711

21 Nathan L. Nanfelt, WSBA #45273

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By: s/ Alison Chase (Pro hac applic. to be filed)

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Fax: (805) 456-1497

*Attorneys for Plaintiff*

4812-0937-9003, v. 2

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MARK GERMACK DDS, individually and on behalf of others similarly situated

(b) County of Residence of First Listed Plaintiff King County, WA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

KELLER ROHRBACK L.L.P. 1201 Third Avenue, Suite 3200, Seattle, WA 98101 (206) 623-1900

DEFENDANTS

THE DENTISTS INSURANCE COMPANY

County of Residence of First Listed Defendant Sacramento County, CA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1391(b)

Brief description of cause: Insurance bad faith

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 04/30/2020

SIGNATURE OF ATTORNEY OF RECORD /s/ Amy Williams-Derry

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

MARK GERMACK DDS, individually and on behalf of
all others similarly situated,

Plaintiff(s)

v.

THE DENTISTS INSURANCE COMPANY

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) DENTISTS INSURANCE COMPANY
1201 K STREET MALL
SACRAMENTO, CA 95814

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Ian S. Birk, Lynn L. Sarko, Gretchen Freeman Cappio, Irene M. Hecht,
Maureen Falecki, Amy Williams-Derry, Nathan Nanfelt
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: