

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-61485-CIV-DIMITROULEAS/SNOW

BANTA PROPERTIES, INC.,

Plaintiff,

vs.

ARCH SPECIALTY INSURANCE
COMPANY,

Defendant.

JURY VERDICT FORM

For all of the following, do you find by a preponderance of the evidence:

I.

A. Did Plaintiff have an insurable interest in the subject properties?

Yes: X No:

IF YOU ANSWERED "NO" TO QUESTION I.A, YOUR VERDICT IS FOR DEFENDANT, AND YOU MUST SKIP THE REST OF THE VERDICT FORM, HAVE YOUR FOREPERSON SIGN IT AND NOTIFY THE MARSHAL THAT YOU HAVE REACHED A VERDICT. IF YOU ANSWERED "YES," PLEASE PROCEED IN ANSWERING THE FOLLOWING QUESTIONS.

B. What is the value of Plaintiff's insurable interest, if any, in the subject properties?


 \$ 5,000,000.

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II.

Do you find that Plaintiff breached the Concealment, Misrepresentation, or Fraud provision of the insurance contract?

Yes: _____

No: _____ 

IF YOU ANSWERED "YES" TO QUESTION II, YOUR VERDICT IS FOR DEFENDANT, AND YOU MUST SKIP THE REST OF THE VERDICT FORM, HAVE YOUR FOREPERSON SIGN IT AND NOTIFY THE MARSHAL THAT YOU HAVE REACHED A VERDICT. IF YOU ANSWERED "NO," PLEASE PROCEED IN ANSWERING THE FOLLOWING QUESTIONS.

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III.

- A.** Do you find that Plaintiff failed to cooperate with Defendant's investigation of the insurance claim, causing substantial prejudice to Defendant?

Yes: _____

No: X

IF YOU ANSWERED "YES" TO QUESTION III.A, PROCEED TO QUESTION III.B. IF YOU ANSWERED "NO" TO QUESTION III.A, SKIP TO QUESTION IV.

- B.** Did Defendant exercise diligence and good faith in attempting to bring about Plaintiff's cooperation?

Yes: _____

No: _____

IF YOU ANSWERED "YES" TO BOTH QUESTIONS III.A. and III.B, PLEASE PROCEED TO QUESTION III.C. IF YOU ANSWERED "NO" TO QUESTIONS III.B, PLEASE SKIP TO QUESTION IV.

- C.** Do you find by a preponderance of the evidence:

That Defendant prevented Plaintiff from cooperating with its investigation after the loss required by the Arch Specialty Insurance Policy or Plaintiff was excused from further cooperation because such cooperation was futile?

Yes: _____

No: _____

IF YOU ANSWERED "YES" TO BOTH QUESTIONS III.A. and III.B, AND YOU ANSWERED "NO" TO QUESTION III.C, YOUR VERDICT IS FOR DEFENDANT, AND YOU MUST SKIP THE REST OF THE VERDICT FORM, HAVE YOUR FOREPERSON SIGN IT AND NOTIFY THE MARSHAL THAT YOU HAVE REACHED A VERDICT. IF YOU ANSWERED "YES" TO QUESTION III.C, PLEASE PROCEED IN ANSWERING THE FOLLOWING QUESTIONS.

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IV.

Regarding Plaintiff's compliance with other post-loss conditions of the Arch Speciality Insurance Policy:

- A.** Do you find that Plaintiff failed to provide all required documentation requested by Defendant pre-suit?

Yes: _____

No: X

- B.** Do you find that Plaintiff breached the Examination Under Oath provision?

Yes: _____

No: X

IF YOU ANSWERED "YES" TO EITHER QUESTIONS **IV.A.** or **IV.B**, PLEASE PROCEED TO QUESTION **IV.C**. IF YOU ANSWERED "NO" TO BOTH QUESTIONS **IV.A.** and **IV.B** , PLEASE SKIP TO QUESTION **V**.

- C.** Do you find by a preponderance of the evidence:

That Defendant prevented Plaintiff from cooperating with any of its obligations after the loss required by the Arch Specialty Insurance Policy, or Plaintiff was excused from further cooperation because such cooperation with the Arch Specialty Insurance Policy was futile?

Yes: _____

No: _____

IF YOU ANSWERED "YES" TO EITHER QUESTIONS **IV.A.** and **IV.B**, AND YOU ANSWERED "NO" TO QUESTION **IV.C**, YOUR VERDICT IS FOR DEFENDANT, AND YOU MUST SKIP THE REST OF THE VERDICT FORM, HAVE YOUR FOREPERSON SIGN IT AND NOTIFY THE MARSHAL THAT YOU HAVE REACHED A VERDICT. IF YOU ANSWERED "YES" TO QUESTION **IV.C**, PLEASE PROCEED IN ANSWERING THE FOLLOWING QUESTIONS.

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V.

Do you find by a preponderance of the evidence:

- A. That under the circumstances of this case that Plaintiff gave timely notice of its claim to Defendant?

Yes: _____

No: _____

IF YOUR ANSWER TO QUESTION V.A IS "NO," THEN PROCEED TO QUESTION V.B. IF YOUR ANSWER TO QUESTION V.A IS "YES" THEN PLEASE PROCEED TO QUESTION VI.

Do you find by a preponderance of the evidence:

- B. That Plaintiff has overcome any prejudice claimed by Defendant?

Yes: _____

No: _____

IF YOU ANSWERED "NO" TO QUESTION V.A. AND YOU ANSWERED "NO" TO QUESTION V.B, YOUR VERDICT IS FOR DEFENDANT, AND YOU MUST SKIP THE REST OF THE VERDICT FORM, HAVE YOUR FOREPERSON SIGN IT AND NOTIFY THE MARSHAL THAT YOU HAVE REACHED A VERDICT. IF YOU ANSWERED "YES" TO QUESTION V.B, PLEASE PROCEED IN ANSWERING THE REMAINING QUESTION.

VI.

What sum of money do you find from a preponderance of the evidence to be the amount of Plaintiff's covered damages resulting from Hurricane Wilma, if any? You must not subtract or apply any deductible or amounts paid to Plaintiff from General Star.

Amount in dollars and cents: \$ 4,000,000

SO SAY WE ALL, dated this 30 day of January, 2012.



FOREPERSON

[END]