

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WADE K. MARLER, DDS, *et al.*,

NO. 2:20-cv-00616-BJR

Plaintiffs,

v.

ASPEN AMERICAN INSURANCE
COMPANY,

Defendant.

KARA MCCULLOCH DMD MSD PLLC, *et al.*,

NO. 2:20-cv-00809-BJR

Plaintiffs,

v.

VALLEY FORGE INSURANCE
COMPANY, *et al.*,

Defendants.

CABALLERO,

NO. 2: 20-cv-05437-BJR

Plaintiff,

v.

MASSACHUSETTS BAY INSURANCE
COMPANY,

Defendant.

STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 1

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 CHORAK, *et al.*,

2 Plaintiffs,

3 v.

4 HARTFORD CASUALTY INSURANCE
5 COMPANY, *et al.*,

6 Defendants.

NO. 2:20-CV-00627-BJR

7
8 PACIFIC ENDODONTICS, P.C., *et al.*,

9 Plaintiffs,

10 v.

11 OHIO CASUALTY INSURANCE
12 COMPANY, *et al.*,

13 Defendants.

NO. 2:20-CV-00620-BJR

14 NGUYEN, *et al.*,

15 Plaintiffs,

16 v.

17 TRAVELERS CASUALTY INSURANCE
18 COMPANY OF AMERICA, *et al.*,

19 Defendants.

NO. 2:20-cv-00597-BJR

20
21
22
23
24
25
26 STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 2

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 LA COCINA DE OAXACA LLC,

NO. 2:20-CV-01176-BJR

2 Plaintiff,

3 v.

4 TRI-STATE INSURANCE COMPANY OF
5 MINNESOTA,

6 Defendant.

7
8 MARK GERMACK DDS,

NO. 2:20-CV-0661-BJR

9 Plaintiff,

10 v.

11 THE DENTISTS INSURANCE COMPANY,

12 Defendant.

13
14
15 **STIPULATION**

16 **Whereas,**

17 1. From April through November of 2020, the plaintiffs in the above-captioned cases
18 filed original complaints for business interruption insurance coverage in this district. Certain of
19 these actions were stayed for periods of time pending review of the actions by the Judicial Panel
20 on Multidistrict Litigation (JPML) for potential consolidation and transfer.

21 2. After the JPML denied consolidation, the Court by order dated November 10,
22 2020, consolidated cases in this district by insurer family, and stayed discovery in each of the
23 consolidated cases until such time as the Court rules on dispositive motions.
24

25
26 STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 3

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Barbara J. Rothstein

Barbara J. Rothstein
UNITED STATES DISTRICT JUDGE

Presented By:

KELLER ROHRBACK L.L.P.

By: s/ Amy Williams-Derry

By: s/ Lynn L. Sarko

By: s/ Gretchen Freeman Cappio

By: s/ Ian S. Birk

By: s/ Irene M. Hecht

By: s/ Karin B. Swope

By: s/ Nathan L. Nanfelt

Amy Williams-Derry, WSBA #28711
Lynn Lincoln Sarko, WSBA #16569
Gretchen Freeman Cappio, WSBA #29576
Ian S. Birk, WSBA #31431
Irene M. Hecht, WSBA #11063
Karin B. Swope, WSBA #24015
Nathan Nanfelt, WSBA #45273
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Fax: (206) 623-3384
Email: awilliams-derry@kellerrohrback.com
Email: lsarko@kellerrohrback.com
Email: gcappio@kellerrohrback.com
Email: ibirk@kellerrohrback.com
Email: ihecht@kellerrohrback.com
Email: kswope@kellerrohrback.com
Email: mfalecki@kellerrohrback.com
Email: nnanfelt@kellerrohrback.com

By: s/ Alison Chase

Alison Chase, *pro hac vice forthcoming*
801 Garden Street, Suite 301
Santa Barbara, CA 93101
Telephone: (805) 456-1496
Fax: (805) 456-1497
Email: achase@kellerrohrback.com

STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 5

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Attorneys for Plaintiffs Nguyen et al., Pacific Endodontics, et al., Chorak et al., Marler et al., McCulloch, et al., Caballero, Germack, La Cocina de Oaxaca LLC, Owens Davies, P.S., and The Seattle Symphony Orchestra

**RUIZ & SMART
PLAINTIFF LITIGATION PLLC**

By: s/ William C. Smart

By: s/ Isaac Ruiz

By: s/ Kathryn Knudsen

William C. Smart, WSBA #8192

Isaac Ruiz, WSBA #35237

Kathryn M. Knudsen, WSBA #41075

Email: wsmart@plaintiffllit.com

Email: iruiz@plaintiffllit.com

Email: kknudsen@plaintiffllit.com

Attorneys for Plaintiffs Jennifer Strelow, DMD and Shokofeh Tabaraie DDS PLLC

HACKETT, BEECHER & HART

By: s/ Brent W. Beecher

Brent W. Beecher, WSBA #31095

601 Union Street, Suite 2600

Seattle, WA 98101

Telephone: (206) 787-1830

Email: bbeecher@hackettbeecher.com

Attorneys for Seattle Bakery, LLC, CSQBKR2018, LLC, Piroshky Piroshky Baker, LLC, Piroshky Baking Company, LLC, SCRBKR2017, LLC

THE LOYD LAW FIRM, P.L.L.C.

By: s/ Shannon Loyd

Shannon Loyd

12703 Spectrum Drive, Suite 201

San Antonio, Texas 78249

Telephone:(210) 775-1424

Facsimile:(210) 775-1410

Email: shannon@theloydlawfirm.com

Attorneys for Plaintiff J Bells LLC

STIPULATION AND ORDER REGARDING MOTION FOR CLASS CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 6

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200

Seattle, WA 98101-3052

TELEPHONE: (206) 623-1900

FACSIMILE: (206) 623-3384

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**GORDON TILDEN THOMAS &
CORDEL LLP**

By: s/ Mark A. Wilner
Mark A. Wilner, WSBA #31550
One Union Square
600 University Street, Suite 2915
Seattle, WA 98101
Telephone: (206) 467-6477
Fax: (206) 467-6292
Email: <mailto:fcordell@gordontilden.com>
mwilner@gordontilden.com

*Attorneys for Plaintiffs Suneet Bath,
Noskenda Inc.*

**GORDON TILDEN THOMAS &
CORDEL LLP**

By: s/ Franklin D. Cordell
By: s/ Kasey D. Huebner
Franklin D. Cordell, WSBA #26392
Kasey D. Huebner, WSBA #32890
One Union Square
600 University Street, Suite 2915
Seattle, WA 98101
Telephone: (206) 467-6477
Fax: (206) 467-6292
Email: fcordell@gordontilden.com
Email: khuebner@gordontilden.com

*Attorneys for Plaintiff The Seattle Symphony
Orchestra*

SIDLEY AUSTIN LLP

By: s/ Robin E. Wechkin
Robin E. Wechkin, WSBA No. 24746
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101
Telephone: (415) 439-1799
Email: rwechkin@sidley.com

Yvette Ostolaza (pro hac vice)
Yolanda C. Garcia (pro hac vice)
2021 McKinney Avenue, Suite 2000
Dallas, Texas 75201

STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 7

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Telephone: (214) 981-3401
Facsimile: (214) 981-3400
Email: yvette.ostolaza@sidley.com
Email: ygarcia@sidley.com

Attorneys for Defendant Aspen American Insurance Company

DLA PIPER LLP (US)

By: s/ Anthony Todaro
By: s/ Lianna M. Bash
Anthony Todaro, WSBA No. 30391 Lianna
Bash, WSBA No. 52598
701 Fifth Avenue, Suite 6900
Seattle, Washington 98104-7029
Tel: 206.839.4800
Fax: 206.839.4801
E-mail: anthony.todaro@us.dlapiper.com
E-mail: lianna.bash@us.dlapiper.com

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

By: s/ H. Christopher Boehning
By: s/ Elizabeth M. Sacksteder
By: s/ Daniel H. Levi
By: s/ Hallie S. Goldblatt
H. Christopher Boehning (pro hac vice)
Elizabeth M. Sacksteder (pro hac vice)
Daniel H. Levi (pro hac vice)
Hallie S. Goldblatt (pro hac vice)
1285 Avenue of the Americas
New York, New York 10019-6064
Tel: 212.373.3000
Fax: 212.757.3990
E-mail: cboehning@paulweiss.com
E-mail: esacksteder@paulweiss.com
E-mail: dlevi@paulweiss.com
E-mail: hgoldblatt@paulweiss.com

Attorneys for Defendants Valley Forge Insurance Company and Transportation Insurance Company
FORSBERG & UMLAUF, P.S.

By: s/ Matthew S. Adams
Matthew S. Adams
901 Fifth Avenue, Suite 1400
Seattle, WA 98164

STIPULATION AND ORDER REGARDING MOTION FOR CLASS CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 8

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 Telephone: 206-689-8500
2 Fax: 206-689-8501
3 Email: madams@foum.law

4 **STEPTOE & JOHNSON LLP**

5 Sarah D. Gordon (*pro hac vice* forthcoming)
6 1330 Connecticut Avenue, NW
7 Telephone: (202) 429-3000
8 Facsimile: (202) 429-3902
9 Email: sgordon@steptoe.com

10 Anthony J. Anscombe (*pro hac vice*
11 forthcoming)
12 One Market Plaza
13 Spear Tower, Suite 3900
14 San Francisco, CA 94105
15 Telephone: (415) 365-6700
16 Facsimile: (312) 577-1370
17 Email: aanscombe@steptoe.com

18 *Attorneys for Defendants Sentinel Insurance
19 Company, Ltd. and Hartford Casualty Insurance
20 Company*

21 **BAKER & HOSTETLER LLP**

22 By: s/ James R. Morrison
23 James R. Morrison, WSBA No. 43043
24 999 Third Avenue, Suite 3900
25 Seattle, WA 98104-4040
26 Phone: (206) 332-1380
E-mail: jmorrison@bakerlaw.com

ALSTON & BIRD LLP

By: s/ Cari K. Dawson
Cari K. Dawson (*pro hac vice*) Kara
F. Kennedy (*pro hac vice*)
1201 W. Peachtree St.
Atlanta, GA 30309
Phone: (404) 881-7000
Email: cari.dawson@alston.com
Email: kara.kennedy@alston.com

*Attorneys for Defendants American Fire and
Casualty Company, The Ohio Casualty Insurance
Company, and Ohio Security Insurance Company*

STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 9

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

BULLIVANT HOUSER BAILEY, PC

By: s/ John D. Bennett
John A. Bennett, WSBA #33214
Stuart D. Jones (pro hac vice)
925 Fourth Avenue, Ste. 3800
Seattle, Washington 98104
Telephone: (206) 292-8930
E-mail: john.bennett@bullivant.com
E-mail: stuart.jones@bullivant.com

WIGGIN AND DANA LLP

By: s/ Michael Menapace
Michael Menapace (pro hac vice)
Robyn Gallagher (pro hac vice)
20 Church Street
Hartford, Connecticut 06103
Tel.: (860) 297-3700
E-mail: mmenapace@wigginc.com
E-mail: rgallgher@wigginc.com

Attorneys for Defendant Massachusetts Bay Insurance Company

By: s/ Daniel R. Bentson
By: s/ Owen R. Mooney
Daniel R. Bentson, WSBA #36825 Owen
R. Mooney, WSBA #45779
925 Fourth Avenue, Ste. 3800
Seattle, Washington 98104
Telephone: (206) 292-8930
E-mail: dan.bentson@bullivant.com
E-mail: owen.mooney@bullivant.com

ROBINSON & COLE LLP

By: s/ Wzystan M. Ackerman
Wzystan M. Ackerman (pro hac vice)
Stephen E. Goldman (pro hac vice)
280 Trumbull Street
Hartford, CT 06103
Telephone: (860) 275-8388
Email: wackerman@rc.com
Email: sgoldman@rc.com

STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 10

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1
2 *Attorneys for Defendants Travelers Casualty*
3 *Insurance Company of America, The Travelers*
4 *Indemnity Co. of America, and The Charter Oak*
5 *Fire Insurance Company*

6 **BULLIVANT HOUSER BAILEY, PC**

7 By: s/ John A. Bennett
8 John A. Bennett, WSBA #33214
9 Stuart D. Jones (pro hac vice)
10 925 Fourth Avenue, Ste. 3800
11 Seattle, Washington 98104
12 Telephone: (206) 292-8930
13 E-mail: john.bennett@bullivant.com
14 E-mail: stuart.jones@bullivant.com

15 **STEPTOE & JOHNSON LLP**

16 By: s/ Antonia B. Ianniello
17 Antonia B. Ianniello (pro hac vice)
18 1330 Connecticut Avenue, N.W.
19 Washington, D.C. 20036
20 Telephone: (202) 429-8087
21 Facsimile: (202) 429-3902
22 Email: aianniello@steptoe.com

23 By: s/ Darlene K. Alt
24 Darlene K. Alt (pro hac vice)
25 227 West Monroe Street, Ste.
26 4700 Chicago, Illinois 60606
Telephone: (312) 577-1262
E-mail: dalt@steptoe.com

Attorneys for Defendant Tri-State Insurance
Company of Minnesota
4833-1011-8358, v. 1

STIPULATION AND ORDER REGARDING MOTION FOR CLASS
CERTIFICATION (Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-
BJR; 2:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR;
2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-0661-BJR) - 11

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384