

RNB/ckc

IN THE DISTRICT COURT OF CHEROKEE COUNTY
STATE OF OKLAHOMA

FILED
SEP 14 2020

CHEROKEE NATION;
CHEROKEE NATION BUSINESSES, LLC; and
CHEROKEE NATION ENTERTAINMENT, LLC;

Plaintiffs,

v.

(1) LEXINGTON INSURANCE COMPANY, *et al.*

Defendants.

LESA ROUSEY-DANIELS, Court Clerk
CHEROKEE COUNTY
By: CV-2020-150 Deputy
Judge Douglas Kirkley

**SUPPLEMENTAL RESPONSE OF EVANSTON
INSURANCE COMPANY TO PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT ON BUSINESS INTERRUPTION COVERAGE**

Defendant, Evanston Insurance Company ("Evanston"), submits a supplemental response in regard to the plaintiffs' motion for partial summary judgment on business interruption coverage filed on August 17, 2020. Evanston files this supplemental response which augments the joint response filed by all defendants in order to identify additional defenses and reasons as to why plaintiffs' motion should be denied pursuant to the excess commercial property insurance policies which Evanston issued to the plaintiffs.

INTRODUCTION

The plaintiffs have sued the defendants for a judicial declaration alleging that "Defendant Insurers insure the Nation's property located within the State of Oklahoma" and that "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." (Petition, at ¶¶ 20, 30 and Prayer for Relief, Exhibit 1). The plaintiffs generally allege without elaboration that as a result of "this pandemic and infection," the plaintiffs sustained alleged damages related to the COVID-19 pandemic.

Evanston issued excess commercial property insurance policies to the Cherokee Nation (Policy No. MKLV14XP012540, DEC 37, Exhibit 2); to the Cherokee Nation Businesses, LLC