

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION

CASE NO:

PARADISE REGAIN'D, LLC,

Plaintiff,

v

CERTAIN UNDERWRITERS AT LLOYD'S
OF LONDON SUBSCRIBING TO SEA WAVE
YACHT INSURANCE CERTIFICATE
NO.: 1682324

Defendants.

COMPLAINT FOR BREACH OF CONTRACT OF INSURANCE

Plaintiff, PARADISE REGAIN'D, LLC ("PARADISE REGAIN'D") through undersigned counsel, hereby files this Complaint against Defendant, CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON SUBSCRIBING TO SEA WAVE YACHT INSURANCE CERTIFICATE NO.: 1682324 ("LLOYD'S") and states as follows:

JURISDICTION AND VENUE

1. This Court has diversity jurisdiction pursuant to 28 U.S.C. §1332, as PARADISE REGAIN'D is a Florida Limited Liability Company, Defendant LLOYD'S is a foreign entity, and the amount in controversy exceeds Seventy-five Thousand (\$75,000) Dollars, exclusive of costs, interest and attorneys' fees. The policy at issue is for a stated amount of insurance, for hull and machinery coverage, of Eight Hundred Eighty-Five Thousand (\$885,000) Dollars.

2. Venue of this action lies in the Southern District of Florida, as, at the time of the subject incident, the vessel which is the subject of this litigation, was owned by PARADISE

REGAIN'D and permanently moored/birthered in Ft. Lauderdale, Florida, the policy of insurance was delivered by Defendant or its representative to Plaintiff in Ft. Lauderdale, Florida, and many of the repairs to the vessel which remain unpaid to date were made in Ft. Lauderdale, Florida.

THE PARTIES

3. PARADISE REGAIN'D, at all material times, was and is a limited liability company organized under the laws of the State of Florida, and a citizen of the State of Florida. PARADISE REGAIN'D was and is the owner of the vessel "Paradise Found," which is the subject of the instant litigation, the hailing port of which is Ft. Lauderdale, Florida.

4. LLOYD'S, at all times material hereto, was and is an organization existing under the laws of the Country of England, which transacts business at, through and in London, England, and did and does do business throughout the State of Florida, including but not limited to Broward County, Florida.

FACTUAL ALLEGATIONS

5. On or about May 12, 2017 Atlas Insurance Group, on behalf of LLOYD'S, issued a marine insurance policy to PARADISE REGAIN'D for coverage on its vessel, a 2002 70' Hatteras motor yacht, HIN: HATGE32J102, named "Paradise Found."

The subject insurance policy, Sea Wave Yacht Insurance Certificate No.: 168234 provided, inter alia, hull and machinery coverage for a one-year period beginning May 12, 2017.

6. A copy of policy No. 168234, with declarations page is attached hereto as **Exhibit "A"**.

7. PARADISE REGAIN'D paid the policy premium of \$8,591.93.00, inclusive of policy fee, surplus lines tax and a surplus lines fee.

8. On or about December 8, 2017 (within the policy period) the subject vessel was traveling in the waters of the Bahamas, going from its home port in Ft. Lauderdale to Marsh Harbor, when one of the engines became disabled, and both generators shut down, disabling the vessel. The vessel was thereafter set at anchor and a towing company called.

9. Despite frequent calls to the towing company, the towing company failed to show. Numerous hours went by as the vessel was anchored overnight. The following morning, the anchor line broke due to heavy winds and seas. Shortly after the anchor line broke, the disabled vessel drifted aground onto a reef at Cross Harbor in South Abaco, Bahamas.

10. Several hours were expended attempting to pull the vessel off ground. Ultimately, a salvor, Oscar Pinder, was able to pull the vessel off the ground and tow it to Sandy Point, Abaco, Bahamas.

11. Because Sandy Point was not a working marina, day(s) later, the vessel, still disabled, had to be towed to Freeport, Grand Bahama, Bahamas, by Oscar Pinder.

12. Paradise Found sat in Freeport for approximately five months where repairs began. Sufficient repairs were made to get the vessel back to Ft. Lauderdale, under its own power, for final repairs.

13. Once back in Ft. Lauderdale, repairs continued on the vessel for nearly two months.

14. Shortly after the loss, PARADISE REGAIN'D made timely report and claim for the loss.

15. The total damages to the vessel Paradise Found, as resulting from the December 2017 incident, exceed \$450,000.00

16. LLOYD'S has made partial payment of the damages, to wit, approximately \$160,000. However, LLOYD'S refuses to make the Plaintiff insured whole for its loss, and has issued a Reservation of Rights ("ROR") letter to its insured which did not set forth the insurer's reasons for its partial denial of its insured's claim. A copy of the ROR letter is attached as **Exhibit "B"**.

17. To date, approximately \$300,000 in damages remain unpaid.

18. PARADISE REGAIN'D has submitted all documents required under the policy, has agreed to sit for an Examination Under Oath ("EUO"), and has otherwise complied with any and all obligations to cooperate with the insurer in its investigation of the loss.

COUNT I

BREACH OF CONTRACT OF INSURANCE

19. The allegations contained in paragraphs 1 through 18 are incorporated herein by reference.

20. This is an action for breach of a contract of insurance.

21. The subject insurance policy, Exhibit "A," constitutes and evidences an enforceable contract between the parties.

22. PARADISE REGAIN'D fully performed under the terms of the contract, and gave adequate consideration in the form of the full policy premium.

23. During the period of time in which coverage was in effect PARADISE REGAIN'D incurred substantial loss to its vessel due to an accidental loss/damage and made a timely claim under the policy for the loss/damage.

24. LLOYD'S breached the contract of insurance by failing to perform its obligation under the contract, to wit, refusing to honor PARADISE REGAIN'D's insurance claim and pay the insured's damages.

25. Under general insurance contract law, and the law of marine insurance, LLOYD'S maintained a duty to deal with its insured with the utmost good faith and fair dealing.

26. LLOYD'S further breached the contract of insurance by utilizing strained interpretations of policy coverage terms, warranties, and exclusionary language to deny coverage of its insured's loss/damages.

27. LLOYD'S breached its duty of utmost good faith by not furnishing its insured the benefits of the policy of all risks insurance, and/or issuing a policy offering only illusory coverage in exchange for adequate consideration.

28. LLOYD'S breach of the contract of insurance has caused PARADISE REGAIN'D to incur substantial foreseeable and consequential damages, including but not limited to post-casualty expenditures with regard to sue and labor.

29. LLOYD'S breach of the contract of insurance has further caused PARADISE REGAIN'D to incur substantial attorneys' fees that it is entitled to recoup pursuant to §627.428, Fla. Stat.

WHEREFORE, based on the foregoing, Plaintiff PARADISE REGAIN'D demands judgment against LLOYD'S for compensatory damages well in excess of \$75,000.00, attorneys' fees, interest, costs and for such other and further relief as this Court deems just.

DEMAND FOR JURY TRIAL

Plaintiff, PARADISE REGAIN'D demands a trial by jury of all issues so triable.

Dated: September 17, 2018

Respectfully submitted,

/s/ Robert Ader

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