

STATE OF NEW YORK
SUPREME COURT COUNTY OF CHENANGO

EDWARD DAIRE and ALLISON DAIRE,

Plaintiffs,

NOTICE OF MOTION

vs.

Index No.: 2019-5393

HBE GROUP, INC. and STERLING INSURANCE
COMPANY,

Defendant.

Motion Made By: Defendant *Sterling Insurance Company*, by its attorneys, Knych & Whritenour, LLC.

Date, Time and Place of Hearing: Motion returnable before the Hon. *Joseph A. McBride*, S.J.C. on *August 24, 2020* at *1:30 pm* ~~at the Chenango County Courthouse, 13 Eaton Avenue, Norwich, New York 13815~~ *via Skype*

Supporting Papers: Affidavit of *Peter W. Knych, Esq.*, sworn to on the 13th day of July, 2020 with attached Exhibits; and the accompanying Memorandum of Law.

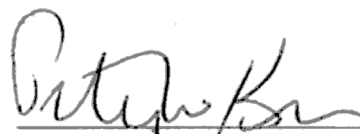
Relief Requested: Grant Defendant Sterling's Motion for Summary Judgment dismissing the complaint pursuant to CPLR 3212; or in the alternative, dismiss the General Business Law claim pursuant to CPLR 3211 or 3212.

Grounds for Relief: (1) The testimony of Plaintiff Edward Daire establishes as a matter of law that the Sterling Policy's "entrustment exclusion" effectively eliminates insurance coverage under the Sterling insurance policy for the plaintiff's insurance claim and 2) The absence of proof of any pattern of conduct by Sterling directed at the general public of any improper claims handling entitles Sterling to dismissal of the General Business Law claim.

Pursuant to CPLR § 2214(b), answering affidavits, if any, must be served no less than seven (7) days before the return date of this motion.

Dated: July 13, 2020

By:



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