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### DOCUMENT INFORMATION

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**IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

**CASE NO.:**

SHANIQUE BAKER, individually, and on  
behalf of others similarly situated,

Plaintiffs,

**CLASS ACTION**

vs.

CITIZENS PROPERTY INSURANCE  
CORPORATION,

Defendant.

\_\_\_\_\_ /

**CLASS ACTION COMPLAINT**

**COMES NOW**, Plaintiff, Shanique Baker, individually, and on behalf of others similarly situated (collectively “Plaintiffs”), by and through the undersigned counsel, and sue Citizens Property Insurance Corporation (“Citizens”), and as grounds thereof would allege as follows:

**INTRODUCTION**

1. Earlier this year, the Florida legislature enacted statute 627.70152, revamping the way that attorney’s fees are awarded in property insurance cases.
2. The purpose of the revamp, according to the legislature, was to reduce the litigation of property claims.
3. In order to do so, the statute enacted a mechanism that both insureds and insurers must follow before a lawsuit can be filed.
4. As part of this process, the insured must make a “presuit settlement demand,” which must “include the amount of reasonable attorney fees and costs incurred by the claimant...as of the date of the notice...” *Fla. Stat. 627.70152(2)(d)*.
5. While all insurers in the State, as well as every lawyer representing insureds, have

interpreted that statute to entitle attorneys representing insureds to be paid reasonable attorney's fees for engaging in the pre-suit process mandated by the statute, Citizens has taken it to mean the opposite.

6. As a result, Citizens has enacted a policy of refusing to pay attorney fees for any claim during the pre-suit process mandated by the statute.

### **JURISDICTION**

7. This Court has jurisdiction over this action because it is an action where the amount in controversy exceeds \$30,000.00.

8. This Court has personal jurisdiction over Defendant Citizens because Defendant Citizens has significant contacts with Miami-Dade County, Florida.

9. Venue in this county is proper because the named plaintiffs reside in this county, and the events leading up to this lawsuit all happened within the county.

### **PARTIES**

10. At all times relevant to this Complaint, Shanique Baker, was an individual residing in Broward County.

11. At all times relevant to this Complaint, Defendant, Citizens, was a Florida corporation with a principal address in Duval, Florida.

### **Factual Allegations as to Plaintiff Shanique Baker**

12. On or about May 8, 2021, Shanique Baker suffered damage to her home.

13. At the time, the Plaintiff had a policy of insurance with Defendant Citizens.

14. Said policy provided coverage for her property against any direct physical loss.

15. As a result, she retained the MAC Legal, P.A. law firm ("the law firm") to assist with the prosecution of the claim.

16. The law firm proceeded to investigate the claim and engage in the pre-suit process required by *Fla. Stat. 627.70152*.

17. During that process, the law firm sent Citizens that required statutory notice.

18. In response, Citizens responded with a payment that specifically excluded reasonable attorney fees.

19. The exclusion of reasonable attorney fees was based on Citizens' belief that the statute does not entitle insureds to reasonable attorney fees during the pre-suit process.

20. All conditions precedent to the filing of this action have occurred or have been waived.

#### **CLASS ACTION ALLEGATIONS**

21. Plaintiffs bring this action as a class action under Florida law and propose the following Florida statewide Class pursuant to Florida Rules of Civil Procedure 1.220(a), 1.220(b)(1), 1.220(b)(3), 1.220(d)(1) and/or 1.220(d)(4). The proposed Class consists of:

**All residential and commercial property insureds who presented a claim for coverage to Citizens after July 1, 2021 and had the claim by Citizens paid without a corresponding payment for attorney's fees.**

22. The following persons are expressly excluded from the Class: (1) The Defendant and its subsidiaries and affiliates; (2) any member of the judiciary to whom this case is assigned, their respective court staff, and the parties' counsel in the litigation.

23. **Numerosity of the Class – Rule 1.220(a)(1)**. The exact number of class members is currently unknown. Plaintiffs believe that there are thousands of people affected, since Citizens is the largest insurer in the State of Florida. The persons in the Class are so numerous that joinder

is impracticable, and the disposition of their claims in this case and as part of a single class action lawsuit, rather than numerous individual lawsuits, will benefit the parties and greatly reduce the aggregate judicial resources that would be spent. The identity of the affected members is contained in the membership records maintained by Defendant and can be ascertained during discovery.

24. **Commonality – Rule 1.220(a)(2)**. Plaintiffs' claims raise questions of law and fact that are common to the claims of each member of the class. Such questions include, but are not limited to, the following:

- a. Whether Florida Statute 627.70152 and its companion statutes entitle insureds to reasonable attorney fees during the pre-suit process mandated by the statute.
- b. Whether the Defendant has a policy in place to not pay reasonable attorney fees during the pre-suit process.
- c. Whether the Plaintiffs and proposed Class Members were injured by the Defendant's acts or omissions.

25. **Typicality – Rule 1.220(a)(3)**. The claims asserted by the Plaintiffs are typical of the claims of the Class members. Plaintiffs and the Class have suffered similar harm as a result of the Defendants' actions, the Defendant has engaged in a common course of conduct giving rise to the claims of the Plaintiffs and all proposed Class Members, and these claims are based on the same legal theories and interests. As such, Plaintiffs' interests coincide with, and are not antagonistic to, those of the other members of the Class.

26. **Adequacy of Representation – Rule 1.220(a)(4)**. Plaintiffs are willing and prepared to serve the Court and the proposed Class in a representative capacity. Plaintiffs will fairly and adequately protect the interests of the Class and have no interests that are adverse to, or

which materially and irreconcilably conflict with, the interests of the other members of the Class.

27. Plaintiffs have engaged the services of counsel indicated below who are experienced in complex class litigation matters, will adequately prosecute this action, and will assert and protect the rights of and otherwise represent Plaintiffs and the putative Class members.

28. **Rule 1.220(b)(3) – Predominance and Superiority**. This action is appropriate as a class action pursuant to Florida Rule of Civil Procedure 1.220(b)(3).

29. Common questions of law and fact (as set forth above) predominate over any individualized questions. Plaintiffs' and the Class's claims arise out of a single course of conduct by Defendant. Citizens' policy has caused wide-spread deprivation of an economic right of all of the class members. Plaintiffs will present common proof with respect to the Defendant's enactment and application of its policy.

30. Pursuant to Rule 1.220(b)(3), a class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all Class Members is impracticable. The prosecution of separate actions by individual members of the Class would impose heavy burdens upon the courts and Defendant and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the Class. A class action would achieve substantial economies of time, effort, and expense, and would assure uniformity of decision as to persons similarly situated without sacrificing procedural fairness.

31. **Rule 1.220(b)(1)**. The prosecution of separate actions by individual members of the Class on the claims and issues herein would create an immediate risk of inconsistent or varying adjudications. These varying adjudications would be prejudicial to members of the Class and Defendants and would establish incompatible standards of conduct. Piecemeal adjudications would also, as a practical matter, be dispositive of the interests of those Class members not parties

to such adjudications, and substantially impair or impede their ability to protect their interests, thereby making class certification of this action appropriate under Rule 1.220(b)(1)(A) and (B).

**COUNT I**

**(Declaratory Judgment (Class Claim))**

32. Plaintiffs repeat, reallege and incorporate by reference paragraphs 1 through 30.

33. Plaintiff and all putative Class Members have submitted property insurance claims to Citizens for payment under policies

34. Plaintiff and all putative Class Members hired counsel in order to assist with the prosecution of the claim.

35. Counsels for the Plaintiffs investigated the claims and submitted the required statutory pre-suit notice.

36. Citizens paid the claims but refused to pay any amount for attorney fees.

37. Citizens refused to pay attorney fees based on a policy it instituted after the enactment of *Fla. Stat. 627.70152*.

38. The policy was to not pay any attorney fees during the pre-suit process mandated by said statute.

39. Plaintiff, individually and on behalf of all those similarly situated, is in doubt as to its rights under Florida Statute 627.70152, and requests that this Court declare its rights and obligations under the foregoing Florida Statute.

40. There is a bona fide, actual, present, practical need for the Court to declare if Citizens' policy of not paying attorney fees during the pre-suit process required by 627.70152 is permitted.

41. Plaintiff has an interest adverse to Citizens and the declaration requested deals with

a present ascertainable state of acts as presented in the allegations set forth above.

42. There is an actual controversy between Citizens and Plaintiff and all Class Members concerning the application of Florida Law.

43. Plaintiff has retained the undersigned counsel to prosecute this action and is entitled to the recovery of its reasonable attorneys' fees and costs pursuant to Section 627.428.

**WHEREFORE**, Plaintiffs, respectfully ask this Court to order the following relief against the Defendants:

- a. Finding that this action satisfies the prerequisites for maintenance as a Class Action set forth in Florida Rules of Civil Procedure 1.220(b)(2)
- b. Entering a judgment in favor of Plaintiff and the Class and against Defendants as follows:
  - i. Declaring that Florida Law requires the Defendant to pay reasonable attorney fees during the pre-suit process mandated by 627.70152.
  - ii. Granting such further relief as the Court deems just and equitable, including but not limited to, awarding the attorneys' fees and costs incurred in the prosecution of this action.
- c. Issue an order certifying that this case is properly maintainable as a Class Action under Florida Rules of Civil Procedure 1.220(b)(2), appointing the Plaintiff to represent the Class defined herein, and appointing the undersigned law firms as Class Counsel.
- d. Issue a declaratory judgment under Count I declaring the parties' respective rights and obligations under Section 627.70152.
- e. For such other relief as this Honorable Court deems just and proper.



**DEMAND FOR JURY TRIAL**

Plaintiffs, hereby demand a trial by jury of all issues so triable.

Respectfully and jointly submitted,

**HERNANDEZ LEVY & CITRON, PLLC**  
*prospective Class counsel and counsel for Plaintiffs*

/s/Michael A. Citron, Esq.

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