

**IN THE COUNTY COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA**

**CASE NUMBER:**

**Restoration 1 of Miami, Inc.  
a/a/o Marie Santil,**

**Plaintiff,**

**vs.**

**SafePoint Insurance Company,**

**Defendant.**

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**COMPLAINT & DEMAND FOR JURY TRIAL**

**COMES NOW** the Plaintiff, Restoration 1 of Miami, Inc., a/a/o Marie Santil, by and through the undersigned attorney and sues the Defendant, SafePoint Insurance Company, and alleges as follows:

1. This is an action for breach of contract with damages less than Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs, and attorney's fees.
2. At all material times hereto, the Plaintiff, Restoration 1 of Miami, Inc., a/a/o Marie Santil, (hereinafter "Plaintiff") was and is a Florida corporation with its principal place of business in Florida.
3. At all material times hereto, Defendant, SafePoint Insurance Company, was a corporation duly licensed to transact insurance business in the State of Florida. Defendant does business, has offices, and/or maintained agents for the transaction of its customary business in Miami-Dade County, Florida.

4. In exchange for their services, Plaintiff brings this action as an assignee of Marie Santil (hereinafter "Insured") pursuant to the valid assignment. Attached hereto and incorporated herein as Plaintiff's Exhibit "A" is a true and correct copy of said assignment agreement.
5. Alternatively, Plaintiff has an assignment in equity based upon contracted services.
6. Prior to December 20, 2014, the Insured sought and purchased homeowner's insurance from Defendant to cover their property located at 1395 NE 131 Street, North Miami, FL 33161, (hereinafter "Insured's Property"). Said policy of insurance, which is believed to be policy number SPIH0000963-00-0000 with corresponding claim number 2014-6210 (hereinafter "Insured's Policy"), was issued by Defendant to Insured to provide insurance coverage which included, but was not limited to, coverage afforded to protect Insured's Property against water damage.
7. Insured's Policy was issued by Defendant to Insured in Miami-Dade County, Florida and was in full force and effect as of December 20, 2014. A formal copy of the Insured's Policy is not currently in the possession of Plaintiff, but is well known to Defendant, and has been requested by Plaintiff through a Request to Produce (which has been served upon Defendant contemporaneously with this Complaint). See: Equity Premium, Inc. v. Twin City Fire Ins. Co., 956 So.2d 1257 (Fla 4<sup>th</sup> DCA 2007); Amiker v. Mid-Century Ins. Co., 398 So.2d 974 (Fla 1<sup>st</sup> DCA 1981); Parkway General Hospital, Inc. v. Allstate Ins. Co., 393 So.2d 1171 (Fla. 3<sup>rd</sup> DCA 1981) and Sasche v. Tampa Music Co., 262 So.2d 17( Fla. 2<sup>nd</sup> DCA 1972).

8. On or about December 20, 2014, Insured's Property and dwelling at 1395 NE 131 Street, North Miami, FL 33161, was damaged by a water event. Said water event was covered under Insured's Policy issued by Defendant to Insured.
9. Shortly after the water event described in paragraph 8 above, Insured contracted with Plaintiff and Plaintiff did provide necessary emergency water removal services and/or construction services to Insured at Insured's Property. In exchange for said services, Insured agreed to allow the direct billing of Plaintiff's services performed at Insured's Property to Defendant and agreed to assign rights under Insured's Policy to Plaintiff.
10. Plaintiff has submitted reasonably priced bills for the water extraction and/or construction services provided to Insured at Insured's Property to Defendant and has been unpaid or underpaid by Defendant for the same. (See invoices attached to Plaintiff's Exhibit "A".) This is an action related to Defendant's breach of contract and failure to pay full value for water extraction and/or construction services to Plaintiff.
11. Jurisdiction and venue of this matter are proper in County Court for Miami-Dade County, Florida.

**COUNT I-BREACH OF CONTRACT AGAINST DEFENDANT**

**COMES NOW** the Plaintiff, Restoration 1 of Miami, Inc. a/a/o Marie Santil, by and through the undersigned attorney sues the Defendant, SafePoint Insurance Company, and alleges as follows:

12. The Plaintiff does hereby repeat and re-allege Paragraphs 1 through 11 above and incorporates the same by reference herein.

13. The Insured is a named insured under the homeowner's insurance policy of the Insured (the Insured's Policy described above) and said policy was in full force and effect as to the Insured at all times material to this Complaint, including when Insured's Property was damaged as described above.
14. Plaintiff has complied with all conditions precedent to this lawsuit and to entitle Plaintiff to recover under the Insured's Policy, or any such conditions have been waived.
15. Despite demand for payment, Defendant has failed or refused to pay all of Plaintiff's bill(s).
16. Defendant's refusal to reimburse Plaintiff adequately for contracted services provided, and otherwise make Plaintiff whole, constitutes a breach of contract.
17. Plaintiff has been damaged as a result of Defendant's breach in the form of insurance proceeds which have not been paid, interest, costs, and attorney's fees.
18. Plaintiff has been and remains fully prepared to comply with all of the obligations pursuant to the aforesaid contract of insurance.
19. As a result of Defendant's aforementioned breach of contract, it has become necessary that Plaintiff retain the services of the undersigned attorneys pursuant to Fla. Stat. § 627.428 (2014). Plaintiff is obligated to pay a reasonable fee for the undersigned attorneys' services in bringing this action, plus necessary costs.
20. Plaintiff is entitled to recover attorney's fees and costs under Fla. Stat. §627.428 (2014).

**COUNT II – BREACH OF CONTRACT WITH  
IMPLIED EQUITABLE ASSIGNMENT OF BENEFITS**

21. Plaintiff does hereby repeat and re-allege Paragraphs 1 through 20 above and incorporates the same by reference herein.
22. It was the intent of Plaintiff and Insured that the right to pursue a claim against Defendant for the payment of Plaintiff's invoices and regarding any denial of coverage and benefits related to the services of Plaintiff be transferred to Plaintiff.
23. Plaintiff contracted to and undertook to perform remediation and/or construction services at the Insured's Property and dwelling without full payment for services up front in reliance upon and based upon the intent of the parties that Plaintiff would be assigned the Insured's rights and benefits under the policy for Plaintiff's services and would have the right to pursue payment of its invoices directly from Defendant under Insured's Policy. As part of the actual contract between Plaintiff and the Insured, an assignment of the Insured's claim against Defendant was logically implied.
24. Defendant was, at all times material to this Complaint, on notice of the intent of Plaintiff and Insured set forth in paragraphs 22 and 23 above, as well as Plaintiff's reliance upon this agreement between the Insured and Plaintiff.
25. Plaintiff is the actual beneficiary of the Insured's benefits and payments under the Insured's Policy for the services performed by Plaintiff at the Insured's Property and dwelling.

26. Defendant, while aware of the foregoing, undertook actions to further Plaintiff's reliance upon said intent and agreement of Plaintiff and the Insured and further induced Plaintiff to undertake services in this matter without payment up front and/or has otherwise taken actions inconsistent with a denial of and challenge to the actual assignment of benefits entered into between Plaintiff and the Insured in this matter (Plaintiff's Exhibit "A"). Plaintiff detrimentally relied upon those actions of Defendant.
27. Plaintiff is entitled to an award of benefits under the Insured's Policy for Defendant's breach of contract under that policy under an implied and equitable assignment of benefits. *See: All Way Reliable Bldg. Maintenance, Inc. v. Moore*, 261 So.2d 131, 132 (Fla. 1972); *Cont'l Cas. Co. v. Ryan Inc. Eastern*, 974 So.2d 368, 378 (Fla. 2008); *Giles v. Sun Bank, N.A.*, 450 So.2d 258, 260 (Fla. 5<sup>th</sup> DCA 1984); *Vt. Mut. Ins. Co. v. Bolding*, 381 So.2d 320 (Fla. 5<sup>th</sup> DCA 1980).
28. As a result of Defendant's aforementioned breach of contract, it has become necessary that Plaintiff retain the services of the undersigned attorneys pursuant to Fla. Stat. §627.428 (2014). Plaintiff is obligated to pay a reasonable fee for the undersigned attorneys' services in bringing this action, plus necessary costs.
29. Plaintiff is entitled to recover attorney's fees and costs from Defendant under Fla. Stat. §627.428, 92.231 and 57.104 (2014). *See: Ryan Inc. Eastern*, 974 So.2d at 378; *Roberts v. Carter*, 350 So.2d 78, 79 (Fla. 1977).

**WHEREFORE**, Plaintiff, Restoration 1 of Miami, Inc. a/a/o Marie Santil, by and through the undersigned counsel, demands judgment against Defendant, SafePoint Insurance Company, for all unpaid bills with interest on any overdue payments, costs, attorney fees pursuant to Fla. Stat. § 627.428 (2014), and for all other remedies the Court sees fit to grant, and Plaintiff demand trial by jury.

**CERTIFICATE OF SERVICE**

**I DO HEREBY CERTIFY** that a true and correct copy of this document will be served on the Defendant along with the Summons in this action.

/s/Natisha N. Quijano, Esq.  
Cohen Battisti & Grossman, Attorneys at Law  
Natisha N. Quijano, Esq.  
**FOR THE FIRM**  
Florida Bar Number: 096485  
1211 Orange Avenue, Suite 200  
Winter Park, Florida 32789  
Phone: (407) 478-4878  
Fax: (407) 478-0204  
Email: [nquijano@cohenbattisti.com](mailto:nquijano@cohenbattisti.com)

# Exhibit “A”





Restoration 1 of Miami  
17150 NW 2<sup>nd</sup> Court, Suite B  
Miami Gardens, FL 33159  
(305)-508-0907

ASSIGNMENT OF INSURANCE CLAIM BENEFITS

Client/Insured MARIE C. SANTIL  
Policy Number FRTM4452799  
Claim Number 6210  
Insurer CITIZENS INS - SAFE POINT INS.  
Date of Loss December 20, 2014

I. ASSIGNMENT OF INSURANCE CLAIM BENEFITS

I, hereby, assign to RESTORATION 1 OF MIAMI INC any and all insurance rights, benefits, and proceeds pertaining to services rendered in relation to the above claim under the above referenced policy of insurance. This assignment of rights, benefits and proceeds is limited to the amount of RESTORATION 1 OF MIAMI's invoice for services rendered in relation to the above claim and the right and ability to collect same directly from my insurer, including the right to file suit and to seek attorney's fees and costs for the above referenced insurance policy, shall continue to belong to the myself, the Client/Insured. This assignment of claim benefits for services rendered should not be read or in any way be construed as an assignment of the policy of insurance, as this is not the intent of RESTORATION 1 OF MIAMI INC or Client/Insured.

I make this assignment in consideration of RESTORATION 1 OF MIAMI's agreement to perform services and supply materials and otherwise perform its obligations under this contract, including not requiring full payment at the time of service. I also hereby direct my insurance carrier(s) to release any and all information requested by RESTORATION 1 OF MIAMI INC, its representative, and/or it's attorney for the direct purpose of obtaining actual benefits to be paid by my insurance carrier(s) for services rendered or to be rendered. In this regard I waive my privacy rights.

II. DIRECT PAYMENT AUTHORIZATION

I, hereby, grant RESTORATION 1 OF MIAMI INC irrevocable power-of-attorney and my express permission to endorse my name on any and all checks received from an insurance company on my behalf for services provided by RESTORATION 1 OF MIAMI INC. I agree that any portion of work, deductibles, betterment, depreciation or additional work requested by the undersigned, not covered by insurance, must be paid by the Client/Insured on or before its completion. I also hereby authorize and unequivocally instruct direct payment of any benefits or proceeds to RESTORATION 1 OF MIAMI INC.

DATED THIS 12-20-14

Marissa Pierce  
(Print Name) Client/Insured or Agent

1395 NE 131<sup>st</sup> ST  
Address N. MIAMI FL 33161

Ma  
(Signature) Client/Insured or Agent

305-978-6643  
Phone

## Restoration1 of Miami Inc.

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17160 NW 2nd Ct. Suite B Miami Gardens, FL 33169 Phone #  
Tel:786-344-7033 Tel:305-508-0907

Insured: Marie C Saintil/ Water Extraction  
Property: 1395 NE 131st Street  
North Miami, FL 33161

Home: (305) 978-6643

Estimator: Restoration1 of Miami  
Business: 17160 NW 2nd Ct. Suite B  
Miami Gardens, FL 33169

Business: (305) 508-0907

Contractor:  
Company: Restoration 1 Of Miami Inc  
Business: 17160 NW 2nd Ct. Suite B  
Miami Gardens, FL 33169

Business: (786) 344-7033

E-mail: info2.  
restoration1miami@gmail.  
com

**Claim Number:** 6210

**Policy Number:** FRJM4452799

**Type of Loss:** Water Damage

Date of Loss: 12/20/2014  
Date Inspected: 12/20/2014

Date Received: 12/20/2014  
Date Entered: 1/5/2015 3:35 PM

Price List: FLMISX\_NOV14  
Restoration/Service/Remodel  
Estimate: MARIE\_C\_SAINTEL

**Restoration1 of Miami Inc.**

17160 NW 2nd Ct. Suite B Miami Gardens, FL 33169 Phone #  
Tel:786-344-7033 Tel:305-508-0907

**MARIE\_C\_SAINTEL****Kitchen**

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
1. Equip. setup, take down & monitoring - after hrs Initial set up, monitoring and driving time on first visit	1.50 HR	0.00	80.81	0.00	24.24	145.46
2. Equipment setup, take down, and monitoring (hourly charge) Includes monitoring, take down and travel time to and from location	3.00 HR	0.00	51.48	0.00	30.88	185.32
3. Equipment decontamination/cleaning charge - per piece of equipment Inject dry System, Dehumidifier and 3 Air movers = 5 Units	5.00 EA	0.00	35.29	0.00	35.30	211.75
4. Apply anti-microbial agent - after hours	25.00 SF	0.00	0.34	0.00	1.70	10.20
5. Wall cavity drying-Inj. type No monit.	4.00 DA	0.00	154.25	0.00	123.40	740.40
6. Drill holes for wall cavity drying - after hrs	4.00 EA	0.00	0.70	0.00	0.56	3.36
7. Air mover - No monitoring 3 Air movers x 4 Days = 12 Days	12.00 EA	0.00	41.53	0.00	99.68	598.04
8. Dehumidifier Large - No monitoring	4.00 EA	0.00	154.25	0.00	123.40	740.40
9. General clean - up	1.00 HR	0.00	27.63	0.00	5.52	33.15
Totals: Kitchen				0.00	444.68	2,666.08

**Dining Room**

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
10. Equip. setup, take down & monitoring - after hrs Initial set up, monitoring and driving time on first visit	1.50 HR	0.00	80.81	0.00	24.24	145.46
11. Equipment setup, take down, and monitoring (hourly charge) Includes monitoring, take down and travel time to and from location	3.00 HR	0.00	51.48	0.00	30.88	185.32
12. Equipment decontamination/cleaning charge - per piece of equipment Air scrubber, Dehumidifier and 3 Air movers = 5 Units	5.00 EA	0.00	35.29	0.00	35.30	211.75
13. Apply anti-microbial agent - after hours	20.00 SF	0.00	0.34	0.00	1.36	8.16
14. Neg. air fan/Air scrub.-Large -No monit.	4.00 DA	0.00	154.25	0.00	123.40	740.40

MARIE\_C\_SAINTEL

1/5/2015

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**Restoration1 of Miami Inc.**

17160 NW 2nd Ct. Suite B Miami Gardens, FL 33169 Phone #  
 Tel:786-344-7033 Tel:305-508-0907

**CONTINUED - Dining Room**

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
15. Add for HEPA filter (for neg. air machine/vacuum - Large)	1.00 EA	0.00	264.03	0.00	52.80	316.83
16. Air mover - No monitoring	12.00 EA	0.00	41.53	0.00	99.68	598.04
3 Air movers x 4 Days = 12 Days						
17. Dehumidifier Large - No monitoring	4.00 EA	0.00	154.25	0.00	123.40	740.40
18. General clean - up	1.00 HR	0.00	27.63	0.00	5.52	33.15
Totals: Dining Room				0.00	496.58	2,979.51

**General**

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
19. Emergency service call - after business hours	1.00 EA	0.00	226.03	0.00	45.20	271.23
20. Cargo van and equipment - per day	3.00 EA	0.00	80.64	0.00	48.38	290.30
21. Baseboard - Detach - after hours	2.00 LF	0.00	1.61	0.00	0.64	3.86
22. Admin Fee	13.00 HR	0.00	82.50	0.00	214.50	1,287.00
Totals: General				0.00	308.72	1,852.39

**Labor Minimums Applied**

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
23. Cleaning labor minimum	1.00 EA	0.00	11.69	0.00	2.34	14.03
Totals: Labor Minimums Applied				0.00	2.34	14.03
<b>Line Item Totals: MARIE_C_SAINTEL</b>				<b>0.00</b>	<b>1,252.32</b>	<b>7,514.01</b>

**Restoration1 of Miami Inc.**

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17160 NW 2nd Ct. Suite B Miami Gardens, FL 33169 Phone #  
Tel:786-344-7033 Tel:305-508-0907

**Summary for Dwelling**

Line Item Total	6,261.69
Overhead	626.16
Profit	626.16
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Replacement Cost Value	\$7,514.01
Net Claim	\$7,514.01
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Restoration1 of Miami