

IN THE CIRCUIT COURT OF THE  
TWENTIETH JUDICIAL CIRCUIT  
IN AND FOR LEE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

ROBERT KIRCHER and  
BARBARA KIRCHER

Plaintiffs,

vs.

AVATAR PROPERTY AND CASUALTY  
INSURANCE COMPANY,

CASE NO: 18-CA-001558

Defendant.

VERDICT FORM

1. Did Plaintiffs prove that the damages claimed occurred during the policy period from March 31, 2017 to March 31, 2018?

YES ☒

NO ☐

If the answer is "no," proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff. If the answer is "yes," proceed to Question Two.



2. Did Defendant prove that Plaintiffs failed to show all damaged property to Defendant, including all damaged contents/personal property?

YES \_\_\_\_\_

NO ☒

If the answer is "yes," proceed to Question Three. If the answer is "no" proceed to Question Four.

3. Did Defendant prove it was prejudiced by the failure of Plaintiffs to show all the damaged property, including contents/personal property?

YES \_\_\_\_\_

NO ☒

If the answer is "no," proceed to Question Four. If the answer is "yes," your verdict is for Defendant. Proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff.

4. Did Defendant prove that Plaintiffs failed to mitigate the alleged damage?

YES \_\_\_\_\_

NO ☒

If the answer is "yes," proceed to Question Five. If the answer is "no" proceed to Question Six.



5. Did Defendant prove it was prejudiced by the failure of Plaintiffs to mitigate the alleged damage?

YES \_\_\_\_\_

NO \_\_\_\_\_

If the answer is "no," proceed to Question Six. If the answer is "yes," your verdict is for Defendant. Proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff.

6. Did Defendant prove that Plaintiffs failed to supply to Defendant an inventory of damaged personal property prior to April 15, 2018?

YES ☒ \_\_\_\_\_

NO \_\_\_\_\_

If the answer is "yes," proceed to Question Seven. If the answer is "no" proceed to Question Eight.

7. Did Defendant prove it was prejudiced by Plaintiffs failure to provide to Defendant an inventory of damaged person property prior to April 15, 2018?

YES \_\_\_\_\_

NO ☒ \_\_\_\_\_



If the answer is "yes," then you cannot award any damages to Plaintiffs under Coverage C (Personal Property/Contents) of the insurance policy. Please proceed to Question Eight.

8. Did Defendant prove that Plaintiffs refused to allow Defendant to exercise its contractual right to repair?

YES \_\_\_\_\_

NO ☒ \_\_\_\_\_

If the answer is "yes," proceed to Question Nine. If the answer is "no" proceed to Question Ten.

9. Did Defendant prove it was prejudiced by Plaintiffs refusal to allow Avatar to exercise its contractual right to repair?

YES \_\_\_\_\_

NO ☒ \_\_\_\_\_

If the answer is "yes," your verdict is for the Defendant. Proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff. If the answer is "no" proceed to Question Ten.

foreperson sign the verdict form, and return the verdict form to the bailiff.

10. Did Defendant prove that Plaintiffs concealed and/or misrepresented any matter relating to their insurance or the claim?



YES \_\_\_\_\_

NO ☒ \_\_\_\_\_

If the answer is "no," proceed to Question Eleven. If the answer is "yes," proceed to Question Twelve.

12. Was the concealment and/or misrepresentation material to the claim?

YES \_\_\_\_\_

NO ☒ \_\_\_\_\_

If the answer is "no," proceed to Question Thirteen. If the answer is "yes," proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff.

13. Did Defendant prove that Plaintiffs committed fraud during the course of the claim?

YES \_\_\_\_\_

NO \_\_\_\_\_

If the answer is "no," proceed to Question Fourteen. If the answer is "yes," proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff.



14. Did Defendant prove that the claimed loss was not fortuitous?

YES \_\_\_\_\_

NO ✓

If the answer is "no," proceed to Question Fifteen. If the answer is "yes," proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff.

15. Did Defendant breach the particular terms of the policy?

YES ✓

NO \_\_\_\_\_

If the answer is "no," proceed no further, have the foreperson sign the verdict form, and return the verdict form to the bailiff. If the answer is "yes," proceed to Question Sixteen.

16. The amount of damages owed under the insurance policy as a result of the Defendant's breach of the particular terms of the policy is

\$ 155,000.00.

*Please sign this verdict form and return it to the courtroom.*

SO SAY WE ALL, this 1<sup>ST</sup> day of OCTOBER 2021.

/s/