

**IN THE SUPREME COURT OF PENNSYLVANIA  
WESTERN DISTRICT**

|                                 |   |                                      |
|---------------------------------|---|--------------------------------------|
| TIMOTHY A. UNGAREAN, DMD D/B/A  | : | Nos. 313 & 314 WAL 2022              |
| SMILE SAVERS DENTISTRY, PC,     | : |                                      |
| INDIVIDUALLY AND ON BEHALF OF A | : |                                      |
| CLASS OF SIMILARLY SITUATED     | : | Petition for Allowance of Appeal     |
| PERSONS,                        | : | from the Order of the Superior Court |
|                                 | : |                                      |
| Respondent                      | : |                                      |
|                                 | : |                                      |
| v.                              | : |                                      |
|                                 | : |                                      |
| CNA AND VALLEY FORGE INSURANCE  | : |                                      |
| COMPANY,                        | : |                                      |
|                                 | : |                                      |
| Petitioners                     | : |                                      |

**ORDER**

**PER CURIAM**

**AND NOW**, this 13th day of July, 2023, the Petition for Allowance of Appeal is **GRANTED**. The issues, as stated by petitioners, are:

- (1) Did the Superior Court err in its decision affirming the trial court’s opinion concluding that Respondent Timothy A. Ungarean, DMD is entitled to Business Income, Extra Expense and Civil Authority coverage under the policy issued by Petitioner Valley Forge Insurance Company as a result of the COVID-19 pandemic and associated orders issued by Governor Wolf, where the policy only provides coverage following “direct physical loss of or damage to” property and neither the relevant government orders nor the COVID-19 pandemic caused a physical alteration to property?
- (2) Did the Superior Court err in its decision affirming the trial court’s opinion concluding that Respondent Timothy A. Ungarean, DMD is entitled to Civil Authority coverage under the policy issued by Petitioner Valley

Forge Insurance Company as a result of the COVID-19 pandemic and associated orders issued by Governor Wolf, where the policy provides such coverage only following an action by a civil authority that was issued “due to” physical loss of or damage to property and “prohibit[s] access” to a policyholder’s premises?

- (3) Did the Superior Court err in its decision affirming the trial court’s opinion concluding that the Contamination; Consequential Loss; Fungi, Wet Rot, Dry Rot, and Microbes; Acts or Decisions; and Ordinance or Law exclusions in the policy issued by Petitioner Valley Forge Insurance Company did not bar coverage for Respondent Timothy A. Ungarean, DMD’s alleged losses related to the COVID-19 pandemic and associated orders issued by Governor Wolf?

The Prothonotary is directed to list this matter for argument simultaneously with *MacMiles, LLC v. Erie Insurance Exchange*, 10 WAP 2023.