



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First	Middle
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Business Economic Loss		
Law Firm	[REDACTED]		

II. DECISION

Denial Upheld

Denial Overturned

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Claim should have been excluded.**
- Claim should have been denied.**
- Claim should not have been excluded.**
- Claim should not have been denied.**
- No error.**

Comment (optional):

Claimant appeals its reconsidered denial of a BEL claim. Admitting it would not qualify for causation under the various tests of Ex. 4B, it argues its entitlement to a causation presumption under a Tourism designation as described in Exhibit 2. The affidavit of its President describes Claimant as both a day spa and store located on [REDACTED] in New Orleans. Claimant sells skin and body products, home products, women's and children's clothes and apparel, women's accessories, costume jewelry, and various greeting cards. Although not controlling, the record indicates that during relevant periods Claimant consistently sold more retail products than spa services. Claimant advertises in periodicals geared to tourists and appears in several tourist and travel blogs. Its location on [REDACTED] is in the heart of one of the primary tourist shopping corridors in the entire city. Although it is true that in tax returns it listed an NAICS (453990, All Other Miscellaneous Store Retailers) not listed in Exhibit 2, Policy 289v2, with which this panelist agrees, notes that this list is illustrative, not exhaustive. Applying the totality of circumstances to this Claimant's operation, especially in light of the claimant-friendly provisions of the Agreement, mandate on a de novo review that it qualifies for Tourism designation under several NAICS codes, including 452990 (General Merchandise). As such, the Administrator's finding must be respectfully reversed.