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18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **FOR THE COUNTY OF LOS ANGELES**

20 ODESSA INVESTMENT CORP. dba THE  
21 GREAT FRAME UP #672, a California  
22 corporation, individually and on behalf of all  
23 others similarly situated,

24 Plaintiff,

25 vs.

26 FARMERS GROUP, INC. a Nevada  
27 corporation; TRUCK UNDERWRITERS  
28 ASSOCIATION, a California Corporation;  
FARMERS INSURANCE EXCHANGE, a  
California reciprocal insurer and exchange;  
TRUCK INSURANCE EXCHANGE, a  
California reciprocal insurer and exchange;  
MID-CENTURY INSURANCE COMPANY,  
a California Corporation; and DOES 1  
through 50 inclusive,

Defendants.

Case No.

**CLASS ACTION COMPLAINT  
FOR:**

1. **BREACH OF CONTRACT;**
2. **BREACH OF THE  
IMPLIED COVENANT OF  
GOOD FAITH AND FAIR  
DEALING; AND**
3. **DECLARATORY RELIEF.**

JURY TRIAL DEMANDED

**CLASS ACTION COMPLAINT**

1 Plaintiff Odessa Investment Corp. dba The Great Frame Up #672 (“Plaintiff” or “Odessa”),  
2 individually and on behalf of all others similarly situated, makes the following allegations based  
3 upon information and belief, except as to those allegations specifically pertaining to Plaintiff and  
4 its counsel, which are based on personal knowledge. Plaintiff brings this action for restitution and  
5 monetary damages against defendants Farmers Group, Inc. (“FGI”), Truck Underwriters  
6 Association (“TUA”), Farmers Insurance Exchange (“FIE”), Truck Insurance Exchange  
7 (“Truck”), Mid-Century Insurance Company (“Mid-Century”), and Does 1 through 50  
8 (collectively, “Defendants,” the “Farmers Defendants,” or “Farmers”), demanding a trial by jury.  
9

#### 10 **NATURE OF THE ACTION**

11 1. Plaintiff is a small retail business that provides custom framing (of everything from  
12 a child’s treasured art project to a collector’s NBA jersey) for its customers from its retail store in  
13 Northridge, California. Plaintiff conducts business by directly interacting with its customers *in-*  
14 *person* at its store. While this may seem quaint in a world that everyday appears to be more-and-  
15 more dominated by Amazon, DoorDash and next-day shipping, it is certainly not unique – many  
16 small retail and service businesses, like Plaintiff, actually depend on having customers come to  
17 their stores.

18 2. In an attempt to combat the exponential spread of COVID-19 and avoid the potential  
19 collapse of our medical systems’ ability to provide care to those with the disease, on March 19,  
20 2020, California issued a statewide stay-at-home order, requiring all Californians to stay at home  
21 except for employees within certain, delineated sectors of the economy that were deemed  
22 “essential” (the “Statewide Stay-at-Home Order”). [Exhibit B.] For some businesses – like those  
23 that were designated “essential” or those which could continue operations with their employees  
24 working remotely from home – the Statewide Stay-at-Home Order was certainly a burden and  
25 very likely bad for business and the bottom line. But for Plaintiff and businesses like it – which  
26 were not designated as “essential” and cannot continue operations remotely – the Statewide Stay-  
27 at-Home Order required the full suspension of their business. That is what happened to Plaintiff,  
28 as it explains on its website:



## Temporarily Closed

*In response to the COVID-19 pandemic, our store is temporarily closed.*

*Thank you for your patience.  
We're all in this together. ♥*



**The Great Frame Up - Northridge**  
March 20th

In accordance with the governor's orders concerning the COVID-19 outbreak, we are closed until further notice. As a non-essential business we are very limited in what we can do, but if you have any questions please feel free to contact us.

We are all in this together. We will continue to monitor the COVID-19 situation and will follow guidance and regulations from public health officials and government agencies so we can continue to provide the best service and the best products to our customers. ... [See Less](#)

3. As of this Complaint, Plaintiff has not made a single sale since March 18, 2020.

4. Insurance is a way to manage risk, providing protection from financial loss. It is particularly appropriate – indeed, vital – for losses that, while unlikely to occur, would be financially devastating if they do occur. Or as Farmers explains on its website, insurance protects you from the unexpected:

### Commercial Property Insurance

The place you do business says a lot about your success. Maybe your wholesale company acquired a second warehouse. Perhaps your ad agency just moved to a stylish new office space. Or you might have added extra stations at your beauty salon.

Whatever purpose your commercial property serves, you need to protect it from the unexpected. As a small business owner, too, a Farmers® agent understands your challenges — and can help you understand your coverage options so you can select the coverage you want.

1           5. To protect itself from the unexpected, Plaintiff purchased a commercial multi-peril  
2 insurance policy issued by Farmers under its Businessowners Program. Pursuant to the policy  
3 issued to Plaintiff, Farmers agreed – in exchange for the premiums paid by Plaintiff – to pay for  
4 the “loss of Business Income sustained and necessary Extra Expense caused by action of civil  
5 authority that prohibits access to the described premises due to direct physical loss of or damage  
6 to property, other than at the described premises, caused by or resulting from any Covered Cause  
7 of Loss.” [Exhibit A (“Plaintiff’s Policy”), at p. 40.]

8           6. An insurance policy is, ultimately, just a contract where the insured agrees to pay  
9 the insurance premiums and the insurance company agrees to pay the insured, up to the policy  
10 limits, for any losses covered by the insurance policy. However, unlike most contracts, the insurer  
11 is usually not called upon to perform (since, after all, insurance protects against the unexpected)  
12 and when the insurer’s performance is required, it only arises when the insured is, *by definition*,  
13 in a desperate financial position. Once a loss occurs, an insured can no longer buy protection for  
14 that loss from competing insurers – in essence, the insurer has exclusive and complete control  
15 over the evaluation, processing and denial of that claim. The implications of this disparity are  
16 fully illustrated by Plaintiff’s experience.

17           7. Plaintiff reported its claim to Farmers on April 8, 2020. Farmers denied Plaintiff’s  
18 claim via telephone *that same day* and followed-up with a written denial on April 9, 2020.  
19 Plaintiff thereafter retained counsel who requested that Farmers provide an explanation of the  
20 basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of  
21 Plaintiff’s claims as required by section 790.03(h)(13) of the Insurance Code and section  
22 2695.7(b)(1) of California’s Unfair Claims Practices Regulations (California Code of Regulations,  
23 Title 10, Chapter 5, Subchapter 7.5). Farmers effectively rejected the request, claiming that  
24 Plaintiff’s counsel request “seeks proprietary information and the request may be subject to legal  
25 interpretation and/or objections.” [Exhibit F, p. 1.]

26           8. Farmers’ strategy, as evidenced by Plaintiff’s experience is clear: summarily deny  
27 claims for loss of business income and necessary extra expense made by small businesses like  
28 Plaintiff with the expectation that many (perhaps most) of its insureds will not and cannot pursue

1 litigation. Then, even if its reading of the policy is shown to be unfounded, a significant number  
2 of its insureds will still not seek to reopen their claims or pursue litigation – either because they  
3 moved-on and have no way to learn that Farmers’ denial was held to be incorrect, or because the  
4 two year limitation on filing suit as set forth in the insurance policies at issue will have lapsed.

5 9. This is not the first time that insurers, including Farmers, have employed this tactic  
6 when faced with a large number of claims. In 2000 California enacted section 340.9 of the Code  
7 of Civil procedure which revived claims that were otherwise time-barred against insurance  
8 companies for losses resulting from the 1994 Northridge earthquake. The legislative history for  
9 the bill that enacted section 340.9 is replete with examples of why the revival statute was  
10 necessary, including, for example, that the applicable statute of limitations “has unfairly barred  
11 victims from being compensated for their losses because many were tragically misled about the  
12 extent of damage suffered as a result of the earthquake [...] Many victims, the accounts state, have  
13 received only partial settlements for their earthquake claims, and others have received no  
14 compensation at all, having been improperly told that the damage they suffered was below policy  
15 deductibles.” (*Hellinger v. Farmers Grp., Inc.* (2001) 91 Cal.App.4th 1049, 1058.)

16 10. Accordingly, so as to protect the interests of other small businesses whose claims  
17 were also summarily and unjustifiably denied by Farmers, Plaintiff brings this action individually  
18 and on behalf of the following class:

19 *All California Retail/Service Businesses with a Farmers*  
20 *Businessowners Policy who, following California’s Stay-at-Home*  
21 *Order, made a claim with Farmers under the policy for lost business*  
22 *income from operations at one or more California Covered Premises*  
23 *and who was denied coverage (the “Class”).*

#### 24 **THE PARTIES**

25 11. Plaintiff Odessa Investment Corp. dba The Great Frame Up #672 (“Plaintiff” or  
26 “Odessa”) is a California corporation with its principle place of business at 19524-1 Nordhoff  
27 Street, Northridge, California 91324. As of the date of the filing of this complaint, Plaintiff is  
28

1 suspended by the California Secretary of State under section 2205 of the Corporations Code for  
2 failure to file the biennial statement required by section 1502 of the Corporations Code. However,  
3 prior to the filing of this complaint, Plaintiff filed the required statement of information with the  
4 California Secretary of State and has paid all required fees. As such, Plaintiff is in substantial  
5 compliance and is therefore permitted to maintain this action. (See *Sade Shoe Co. v. Oschin &*  
6 *Snyder* (1990) 217 Cal.App.3d 1509.)

7 12. The Farmers Insurance Group of Companies ("Farmers" or the "Farmers  
8 Defendants") is an unincorporated association and/or joint venture which exists to market and sell  
9 various forms of property and casualty insurance under federally registered trade names that  
10 include "Farmers Insurance Group of Companies," "Farmers Insurance Group" and "Farmers."  
11 Farmers is comprised of, *inter alia*: (i) Farmers Group, Inc.; (ii) Fire Underwriters Association;  
12 (iii) Truck Underwriters Association; (iv) Farmers Insurance Exchange; (v) Fire Insurance  
13 Exchange; (vi) Truck Insurance Exchange; and (vi) Mid-Century Insurance Co.

14 13. Farmers markets and issues policies under three reciprocal or interinsurance  
15 exchanges: (i) Farmers Insurance Exchange ("FIE"); (ii) Fire Insurance Exchange ("Fire"); and  
16 (iii) Truck Insurance Exchange ("Truck"). An interinsurance exchange is an unincorporated  
17 business organization of a special character in which the participants, called subscribers, are both  
18 insurers and insured. Subscribers exchange insurance contracts through the medium of an  
19 attorney-in-fact and thereby share both risk and profits. As a matter of statute, the reciprocal has  
20 no stockholders; it is supposed to operate solely in the interests of its policyholders, similar to a  
21 mutual insurer or a cooperative. The interinsurance exchange is managed by the attorney-in-fact,  
22 which may be a corporation, and which is appointed by the subscribers through powers-of-  
23 attorney. (Ins. Code, § 1305.) For its services, the attorney-in-fact typically receives a percentage  
24 of the premiums that subscribers pay to the interinsurance exchange. The attorney-in-fact's  
25 relationship with each subscriber is that of a fiduciary.

26 14. FIE, Fire and Truck comprise the "Farmers Property and Casualty Companies" (the  
27 "Farmers P&C Companies" or the "Farmers Exchanges"). The Farmers P&C Companies'  
28 insurance policies are marketed through its contracted agency force utilizing the trade name and

1 logo, "Farmers Insurance Group of Companies," "Farmers Insurance Group" and/or "Farmers."

2 15. Defendant Farmers Group, Inc. ("FGI") is, and at all relevant times was, a  
3 corporation organized and existing under the laws of the State of Nevada with its headquarters  
4 and principal place of business in the County of Los Angeles at 6301 Owensmouth Avenue,  
5 Woodland Hills, California. FGI is a wholly owned subsidiary of Zurich Insurance Group, Ltd.,  
6 a Swiss holding company. FGI is an insurance holding company: it owns several insurance  
7 companies and serves as the attorney-in-fact, either directly or through wholly owned subsidiaries,  
8 for the Farmers P&C Companies and their subsidiaries. FGI does business as Farmers  
9 Underwriters Association ("FUA"). FUA is the attorney-in-fact for defendant Farmers Insurance  
10 Exchange ("FIE"). FGI owns the service marks "Farmers Insurance Group of Companies" and  
11 "Farmers Insurance Group," under which all Farmers Defendants conduct business. As the  
12 attorney-in-fact for Farmers P&C Companies, FGI runs the operation of the Farmers P&C  
13 Companies for a fee. FGI sets the fee (up to a high limit established in the subscription agreement)  
14 and provides all operating services (other than claims adjustment) for Farmers P&C Companies.

15 16. Defendant Truck Underwriters Association ("TUA") is, and at all relevant times  
16 was, a corporation organized and existing under the laws of the State of California with its  
17 headquarters and principal place of business in the County of Los Angeles at 6301 Owensmouth  
18 Avenue, Woodland Hills, California. TUA is a wholly owned subsidiary of FGI and is an  
19 attorney-in-fact for defendant Truck Insurance Exchange ("Truck"). TUA's operations are  
20 managed, overseen, controlled and directed, in whole or in part, by FGI and/or agents of FGI.

21 17. Defendant Farmers Insurance Exchange ("FIE") is, and at all relevant times was, a  
22 reciprocal or interinsurance exchange organized under laws of the State of California and is  
23 authorized to conduct insurance business and does conduct insurance business in the State of  
24 California. (Ins. Code, §§ 1300, *et seq.*) FIE's statutory home office and main administrative  
25 office is located in the County of Los Angeles at 6301 Owensmouth Avenue, Woodland Hills,  
26 California. FIE is a member of the Farmers Insurance Group of Companies and FIE's operations,  
27 including but not limited to, its claims and underwriting operations and procedures, are managed,  
28 overseen, controlled and directed, in whole or in part, by defendant FGI and/or agents of FGI.



1           18. Defendant Truck Insurance Exchange (“Truck”) is, and at all relevant times was, a  
2 reciprocal or interinsurance exchange organized under laws of the State of California and is  
3 authorized to conduct insurance business and does conduct insurance business in the State of  
4 California. (Ins. Code, §§ 1300, *et seq.*) Truck’s statutory home office and main administrative  
5 office is located in the County of Los Angeles at 6301 Owensmouth Avenue, Woodland Hills,  
6 California. Truck is a member of the Farmers Insurance Group of Companies and Truck’s  
7 operations, including but not limited to, its claims and underwriting operations and procedures,  
8 are managed, overseen, controlled and directed, in whole or in part, by defendant FGI and/or  
9 agents of FGI.

10           19. Defendant Mid-Century Insurance Co. (“Mid-Century”) is, and at all relevant times  
11 was, a corporation organized and existing under the laws of the State of California with its  
12 headquarters and principal place of business in the County of Los Angeles at 6301 Owensmouth  
13 Avenue, Woodland Hills, California. Mid-Century is wholly owned by the Farmers P&C  
14 Companies; specifically, FIE owns 80% of Mid-Century with Fire and Truck each owning 10%  
15 of Mid-Century. Mid-Century’s operations, including but not limited to, its claims and  
16 underwriting operations and procedures, are managed, overseen, controlled and directed, in whole  
17 or in part, by defendant FGI and/or agents of FGI.

18           20. The true names and capacities, whether individual, corporate, partnership, associate  
19 or otherwise of Defendants Does 1 through 50, inclusive, are unknown to Plaintiff, who therefore  
20 sues these defendants by such fictitious names pursuant to section 474 of the Code of Civil  
21 Procedure. Plaintiff will seek leave to amend this complaint to allege the true names and  
22 capacities of Does 1 through 50, inclusive, when they are ascertained.

23           21. Plaintiff is informed and believes, and based upon that information and belief  
24 alleges, that the Defendants named in this complaint, including Does 1 through 50, inclusive, are  
25 responsible in some manner for one or more of the events and happenings that proximately caused  
26 the injuries and damages alleged herein.

27           22. Plaintiff is informed and believes, and based upon that information and belief  
28 alleges, that each of defendant named in this complaint, including Does 1 through 50, inclusive,



1 in performing or omitting to perform the acts alleged were, at relevant times, acting as actual  
2 agents, conspirators, ostensible agents, partners and/or joint venturers and employees of all other  
3 defendants, and that all acts alleged herein occurred within the course and scope of said agency,  
4 employment, partnership, and joint venture, conspiracy or enterprise, and with the express and/or  
5 implied permission, knowledge, consent, authorization and ratification of their co-defendants and  
6 are thus liable for all damages alleged herein, jointly and severally.

7 23. Plaintiff is informed and believes, and based upon that information and belief  
8 alleges, that each defendant named in this complaint, including Does 1 through 50, inclusive,  
9 knowingly and willfully acted in concert, conspired and agreed together among themselves, and  
10 entered into a combination and systemized campaign of activity, to *inter alia* damage Plaintiff and  
11 the Class and to otherwise consciously and/or recklessly act in derogation of the rights of Plaintiff  
12 and the Class, and the trust reposed by Plaintiff and the Class in each of the Defendants, the acts  
13 being negligently and/or intentionally inflicted. This conspiracy, and Defendants' concerted  
14 actions, were such that, to the information and belief of Plaintiff and the Class, and to all  
15 appearances, Defendants, represented a unified body so that the actions of one defendant were  
16 accomplished in concert with, and with knowledge, ratification, authorization and approval of  
17 each of the other Defendants.

18  
19 **ALTER EGO AND JOINT VENTURE ALLEGATIONS**

20 24. Plaintiff is informed and believes, and based upon that information and belief  
21 alleges, that FGI, TUA, FIE, Truck, and Mid-Century were, at all times relevant herein, related  
22 corporations with a unity of interest and ownership that the separate corporate personalities were  
23 merged, such that FGI, TUA, FIE, Truck, and Mid-Century formed a single enterprise owned and  
24 operated by the same individuals and/or entities.

25 25. Plaintiff is informed and believes, and based upon that information and belief  
26 alleges, that:

- 27 a. FGI together with the other Farmers Defendants forms an insurance company  
28 holding system;

- 1 b. FGI, either directly or through its wholly owned subsidiaries (FUA and TUA are  
2 wholly owned subsidiaries of FGI) is the attorney-in-fact for defendants FIE and  
3 Truck and, as the attorney-in-fact, FGI appointed itself to provide management  
4 services for these entities for a fee;
- 5 c. TUA, FIE, Truck and Mid-Century are, and at all relevant times were, mere shells  
6 without capital or assets;
- 7 d. FGI manages, oversees, controls and directs, in whole or in part, the operations of  
8 the other Farmers Defendants;
- 9 e. FGI, either directly or through wholly owned subsidiaries, performs all underwriting  
10 functions for the Farmers P&C Companies;
- 11 f. FGI owns the federally registered trade names "Farmers Insurance Group of  
12 Companies," "Farmers Insurance Group" and "Farmers" under which all Farmers  
13 Defendants operate;
- 14 g. All of the employees of the Farmers Defendants regard themselves as working for  
15 a unified entity known as "Farmers";
- 16 h. FGI maintains the same business offices as the other Farmers Defendants and all  
17 Farmers Defendants share the same principal place of business;
- 18 i. FGI controls all advertising for all of the Farmers Defendants and in that advertising,  
19 the Farmers Defendants make no distinction among themselves and, instead, hold  
20 themselves out in the collective as "Farmers" or as the "Farmers Insurance Group  
21 of Companies";
- 22 j. All Farmers Defendants share the same agent for service of process;
- 23 k. FGI controls and manages FIE, Fire, Truck and Mid-Century for a management fee  
24 which is a percentage of the gross earned premiums, not the net earned premiums;
- 25 l. For serving as the attorney-in-fact for FIE, Fire and Truck, FGI is entitled to receive  
26 a management fee of up to 20% (25% in the case of Fire) of the gross premium  
27 earned by these entities and their subsidiaries (including Mid-Century);
- 28 m. FGI contracts with FIE, Fire, and Truck wherein FGI is responsible for the servicing

1 of policies, the underwriting of policies (including all actuarial work), the marketing  
2 and advertising of policies, the contracting with insurance agents and the outside  
3 sale force, and the drafting and development of all policy forms; and

4 n. In 2017 alone, FGI was paid over \$2.8 billion in fees on policies issued by FIE, Fire,  
5 Truck and their subsidiaries (including Mid-Century).

6 26. The Farmers Defendant act and operate as a single insuring unit as evidenced by the  
7 above facts and, *inter alia*, that: (i) FIE, Fire, Truck and Mid-Century are integral parts of a single  
8 operating unit; (ii) FGI, FIE, Fire, Truck and Mid-Century are treated as one company for certain  
9 aspects of tax reporting; and (iii) FGI performs many of the typical functions of an insurer.

10 27. The alter-ego relationship among the Farmers Defendants should be recognized to  
11 prevent an injustice. If the alter-ego relationship among the Farmers Defendants is not recognized  
12 an inequity will result because an entity responsible for wrongdoing will be shielded from liability.  
13 When considering an award of punitive damages, the entire net worth of a defendant is considered.  
14 If the corporate structure of the Farmers Defendants is disregarded, punitive damages will be  
15 based solely on the assets of the “fronting” entity; assets which are artificially depressed by the  
16 Farmers Defendants’ business structure. Because punitive damages are meant to punish and make  
17 an example of the wrongdoer, it would be inequitable to allow entities responsible for the  
18 wrongdoing complained of to shield their assets and escape punitive damage liability.

19 28. If the alter-ego relationship among the Farmers Defendants is not recognized, an  
20 inequity would also result because FIE, Truck and Mid-Century, the purported policy-issuing  
21 entities, have no employees and take no independent action. Were judgment obtained against FIE,  
22 Truck or Mid-Century alone, Plaintiff would have obtained judgment against a shell entity, while  
23 the co-defendant entities which make the decisions, carry the risk and which are responsible for  
24 the wrongful acts, escape liability. This is inequitable.

25 29. Separately and, to the extent necessary, Plaintiff is informed and believes, and based  
26 upon that information and belief alleges, that in carrying out the conduct complained of in this  
27 action, the Farmers Defendants were acting together as a joint venture. Among the facts  
28 supportive of joint venture are:

- 1 a. Profits made on policies issued by FIE, Truck, and Mid-Century, are shared among  
2 the Farmers' Defendants;  
3 b. FGI creates the policies and procedures used by FIE, Truck, and Mid-Century to  
4 handle claims made under FIE, Truck, and Mid-Century issued insurance policies.  
5 c. FGI controls the employees and activities of FIE, Truck, and Mid-Century  
6 employees, including the handling of claims made under FIE, Truck, and Mid-  
7 Century policies;  
8 d. FGI advertises and markets insurance policies sold by issuing entities, including  
9 FIE, Truck, and Mid-Century;  
10 e. FGI controls, as that term is defined in the California insurance holding company  
11 act, the other Farmers Defendants;  
12 f. TUA does not, itself, perform any underwriting services or claim-related services;  
13 instead, FGI handles these services, for FIE, Truck and Mid-Century; and  
14 g. All entities which share the Farmers Group of Companies service mark, including  
15 each of the Farmers Defendant, share the same strategic plan.  
16

17 **JURISDICTION AND VENUE**

18 30. Plaintiff brings this action to recover damages and to seek restitution and other relief  
19 available at law or in equity. All of the acts and omissions complained of in this action took place  
20 in the State of California. Plaintiff asserts no claims under federal law.

21 31. Venue is proper in this judicial district pursuant to California Code of Civil  
22 Procedure section 395 because a substantial part of the events or omissions giving rise to the  
23 claims occurred and/or emanated from Los Angeles County, where all of the Farmers Defendants  
24 have either their corporate headquarters and principal place of business (in the case of FIG, TUA  
25 and Mid-Century) or where they have their statutory home office and main administrative office  
26 (in the case of FIE and Truck).  
27  
28

1 **FACTUAL ALLEGATIONS**

2 **A. The COVID-19 Pandemic.**

3 32. COVID-19 is an infectious disease for which there are currently no vaccines or  
4 treatments. COVID-19 is a new disease with the first known outbreak being a cluster of cases of  
5 pneumonia in Wuhan, Hubei Province in China in December 2019. The disease did not even have  
6 an official name when WHO declared a “Public Health Emergency of International Concern” on  
7 January 30, 2020. The name “COVID-19” came almost two weeks later with the WHO  
8 announcing the name on February 11, 2020 and explaining that it was short for “coronavirus  
9 disease 2019.”

10 33. COVID-19 spreads readily from person-to-person. When an infected person  
11 coughs, sneezes, or even just talks, droplets with the infectious agent fly into the air from the  
12 person’s nose or mouth and can infect others. To make matter worse, a person can have COVID-  
13 19, be infectious, and yet be entirely asymptomatic. As such, someone who do not even know  
14 that they are infected can nonetheless pass the disease on to others. Thus, absent testing, there is  
15 no way to know whether a person with whom one comes into contact might be spreading the  
16 disease. The coronavirus can live in the air for up to three hours, be breathed in by others, and  
17 get into their lungs, where it can infect them. The coronavirus can also infect people who touch  
18 surfaces, such as countertops and doorknobs, and can live on plastic and stainless steel for up to  
19 three days. The risk of secondary exposure and infection through exposure to surfaces  
20 contaminated with COVID-19 is particularly acute in places where the public gathers to socialize,  
21 eat, drink, shop, find entertainment, and recreate.

22 34. Not surprisingly – given its characteristics – COVID-19 spread rapidly. On March  
23 11, 2020, “[d]eeply concerned both by the alarming levels of spread and severity, and by the  
24 alarming levels of inaction, WHO made the assessment that COVID-19 can be characterized as a  
25 pandemic.” [WHO Director General Opening Remarks on COVID-19 (March 11, 2020).]

26 35. On March 11, 2020 (when the WHO first labeled COVID-19 a pandemic), there  
27 were approximately 37,000 COVID-19 cases outside of China. [Coronavirus Disease 2019  
28 (COVID-19) Situation Report 51, WHO (March 11, 2020).] This represented a 13-fold increase

1 from the number of COVID-19 cases that existed outside China on February 26, 2020 – just two  
2 weeks prior. [WHO Director General Opening Remarks on COVID-19 (March 11, 2020).] Also  
3 as of March 11, 2020, more than 4,000 people had lost their lives, and as the Director-General of  
4 WHO stated, “[t]housands more [were] fighting for their lives in hospitals.” [*Id.*]

5 36. According to the CDC COVID Data Tracker, as of the week ending March 14, 2020  
6 there were approximately 2,200 confirmed COVID-19 cases in the United States and 51 deaths  
7 involving COVID-19. As of May 22, 2020, there have been a total of 1,571,617 confirmed  
8 COVID-19 cases and 94,510 deaths involving COVID-19. [CDC COVID Data Tracker available  
9 at [www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html](http://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html).]

10 37. According to the California Department of Public Health, as of March 14, 2020,  
11 there were 288 confirmed COVID-19 cases in California and five deaths. [State Health &  
12 Emergency Officials Announce Latest COVID-19 Facts (March 14, 2020) available at  
13 [www.cdph.ca.gov/Programs/OPA/Pages/NR20-022.aspx](http://www.cdph.ca.gov/Programs/OPA/Pages/NR20-022.aspx).] As of May 22, 2020, there have been  
14 a total of 88,444 confirmed COVID-19 cases in California and 3,630 deaths. [State Officials  
15 Announce Latest COVID-19 Facts (May 22, 2020) available at  
16 [www.cdph.ca.gov/Programs/OPA/Pages/NR20-096.aspx](http://www.cdph.ca.gov/Programs/OPA/Pages/NR20-096.aspx).]

17 **B. In Response to COVID-19, California’s State and Local Government**  
18 **Prohibit Access to Non-Essential Retail and Service Businesses, Like those of**  
19 **Plaintiff and the Class.**

20 38. On March 19, 2020, the Governor of California issued an executive order  
21 (Executive Order N-33-20), which along with A Public Health Order issued by the California  
22 State Public Health Officer, implemented a statewide stay-at-home order in California (the  
23 “Statewide Stay-at-Home Order”). [Exhibit B.] California’s Stay-At-Home Order – the nation’s  
24 first statewide shelter-in-place Executive Order – directed “all individuals living in the State of  
25 California to stay home or at their place of residence except as needed to maintain continuity of  
26 operations of the federal critical infrastructure sectors” and any “additional sectors [designated by  
27 the State Public Officer] as critical in order to protect the health and well-being of all  
28 Californians.” [Ex. B, at p. 1.]

1           39. Pursuant to the March 19, 2020 Executive Order, on March 20, 2020, the California  
2 State Public Health Officer released a list of “Essential Critical Infrastructure Workers.” [Exhibit  
3 C.] Since March 20, 2020, the list of “Essential Critical Infrastructure Workers” has been updated  
4 at least twice with the most recent version dated April 28, 2020. [Exhibit D.] The list of “Essential  
5 Critical Infrastructure Workers” is organized into thirteen different sectors (such as, for example,  
6 the “Health and Public Health Sector” and the “Communications and Information Technology  
7 Sector”). [Ex. D, at p. 1.] Although there is no “retail” or “service” sector listed in the “Essential  
8 Critical Infrastructure Workers” document, some retail and service related business are addressed  
9 under different sectors. For example, the “Essential Critical Infrastructure Workers” document  
10 provides that the following qualify as essential workers:

- 11           a. “Workers in retail facilities specializing in medical goods and supplies.”
- 12           b. “Mortuary services providers, including workers performing mortuary, funeral,  
13           cremation burial, cemetery, and related services, including funeral homes,  
14           crematoriums, cemetery workers and coffin makers.”
- 15           c. “Workers supporting groceries, pharmacies, convenience stores, and other retail that  
16           sells food or beverage products, and animal/pet food, retail customer support  
17           service, information technology support staff, for online orders, pickup/takeout or  
18           delivery.”
- 19           d. “Retail fuel centers such as gas stations and truck stops, and the distribution systems  
20           that support them.”
- 21           e. “Workers in hardware and building materials stores, consumer electronics,  
22           technology and appliances retail, and related merchant retailers, wholesalers and  
23           distributors that support essential workforce functions where sales and operations  
24           cannot be conducted online.”
- 25           f. “Workers in laundromats, laundry services, and dry cleaners.”

26           40. Along with issuing the list of “Essential Critical Infrastructure Workers,” the State  
27 provided additional information regarding the Statewide State-at-Home Order on a webpage  
28 located at [covid19.ca.gov/stay-home-except-for-essential-needs](https://covid19.ca.gov/stay-home-except-for-essential-needs) (the “Stay Home Webpage”). As



1 shown by a screenshot from the Stay Home Webpage as it appeared on March 21, 2020, the  
2 webpage included a “frequently asked questions” section which provided examples of “What’s  
3 open?” and “What’s closed?”:

#### **Frequently asked questions**

##### **When does the stay at home order go into effect and how long will we stay home? What areas of the state are covered?**

The order went into effect on Thursday, March 19, 2020. The order is in place until further notice. It covers the whole state of California, and it exempts activity as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction, including housing construction.

##### **What can I do? What’s open?**

Essential services will remain open, such as:

- Gas stations
- Pharmacies
- Food: Grocery stores, farmers markets, food banks, convenience stores, take-out and delivery restaurants
- Banks
- Laundromats/laundry services
- Essential state and local government functions will also remain open, including law enforcement and offices that provide government programs and services.

##### **What’s closed?**

- Dine-in restaurants
- Bars and nightclubs
- Entertainment venues
- Gyms and fitness studios
- Public events and gatherings
- Convention Centers
- Hair and nail salons

24 41. Pursuant to the Statewide Stay-at-Home Order, all individuals in California were  
25 ordered to stay at home unless they were needed at work to maintain continuity of operations of  
26 the federal critical infrastructure sectors or were otherwise designated as an “essential worker” by  
27 the California State Public Health Officer. As such, the Statewide Stay-at-Home Order prohibited  
28 access to any business that was not designated as “essential” and thereby mandated the suspension

1 of operations of any “non-essential” business that conducted business by directly interacting with  
2 customers or clients at the premises of the business.

3 42. Pursuant to the California Stay-at-Home Orders, Plaintiff completely suspended its  
4 retail operations and has had no sales since March 18, 2020. Like Plaintiff, members of the Class,  
5 were required to and did either fully or partially suspended their in-person retail or service  
6 operations at their California business premises pursuant to the Statewide Stay-at-Home Order.

7 43. At the time of Statewide Stay-at-Home Order, Plaintiff was not aware of the  
8 presence of COVID-19 virus on or in its premises and no employee or customer had reported a  
9 COVID-19 infection. Plaintiff nonetheless had to suspend its business operations and has  
10 sustained losses of business income and incurred extra expenses in order to comply with the  
11 Statewide Stay-at-Home Order. Like Plaintiff, members of the Class, had to suspend their  
12 business operations, sustained losses of business income and incurred extra expenses.

13 **C. Farmers’ Uniform Businessowners Policies Cover the Business Income Loss**  
14 **Claims of Plaintiff and the Class.**

15 44. Plaintiff is insured by a commercial multi-peril insurance policy issued by Farmers  
16 under its “Businessowners Program” and was assigned policy number 60624-54-52 (“Plaintiff’s  
17 Policy”). [Exhibit A.] Plaintiff’s Policy has a policy period of November 24, 2019 to November  
18 20, 2020 [Ex. A, at p. 28] and provides coverage for Plaintiff’s retail location at 19524 Nordhoff  
19 Street, No. 1, Northridge, California 91324. [Ex. A, at p. 29.]

20 45. Although ostensibly issued by Truck [Ex. A, p. 17], the policy forms and  
21 endorsements that comprise Plaintiff’s Policy are identical to the commercial multi-peril  
22 insurance policies ostensibly issued by FIE and Mid-Century under Farmers’ Businessowners  
23 Program. In addition to having identical policy forms and endorsements, all of the insurance  
24 policies under Farmers’ Businessowners Program are marketed, sold and underwritten exactly the  
25 same way by the same employees and/or agents – regardless of whether any particular policy is  
26 ostensibly issued by FIE, Truck or Mid-Century. Likewise, claims under the policies are all  
27 investigated and adjusted by the same employees (who were all trained the same way and all  
28 subject to the same policies, oversight and incentives) and under the same standards.

1           46. Farmers recently explained, in a filing memorandum to the California Department  
2 of Insurance regarding a requested rate change, why the insurance policies under Farmers’  
3 Businessowners Program should be treated the same – regardless of whether they are ostensibly  
4 issued by FIE, Truck or Mid-Century:



13           47. Plaintiff’s Policy, like the policies of all Class members (collectively, the “Farmers  
14 BOP Policies”) is comprised of the same standardized set of forms and endorsements, including,  
15 *inter alia*: (i) Farmers’ Businessowners Special Property Coverage Form (form BP 00 02) [Ex. A,  
16 at pp. 36-58]; (ii) Farmers’ Business Income and Extra Expense – Partial Slowdown Coverage  
17 Form (form J7138) [Ex. A, at p. 73]; and (iii) Farmers’ Exclusion of Loss Due to Virus or Bacteria  
18 Endorsement Form (form J6316) [Ex. A, at p. 106].

19           48. Pursuant to its Businessowners Special Property Coverage Form (found in all  
20 Farmers BOP Policies), Farmers agreed to “pay for direct physical loss of or damage to Covered  
21 Property at the premises described in the Declarations caused by or resulting from any Covered  
22 Cause of Loss.” [Ex. A, at p. 36.] As an “all risks” policy, the Farmers BOP Policies cover loss  
23 or damage to the covered premises resulting from all risks other than those expressly excluded  
24 and, as such, “Covered Cause of Loss” is defined in the Farmers BOP Policies by what is *excluded*  
25 from a Covered Cause of Loss – rather than by what is *included*. [Ex. A, at p. 37, ¶3 (“Covered  
26 Causes of Loss”).]

27           49. Pursuant to the Businessowners Special Property Coverage Form, the Farmers BOP  
28 Policies provide coverage for the loss of business income as an “Additional Coverage,” as follows:

**5. Additional Coverages**

**f. Business Income**

**(1) Business Income**

We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

[Ex. A, at p. 39.]

50. Pursuant to the Businessowners Special Property Coverage Form, the Farmers BOP Policies also provide coverage for Extra Expense (defined as an expense incurred to avoid or minimize the suspension of business and to continue "operations") as an "Additional Coverage," as follows:

**5. Additional Coverages**

**f. Extra Expense**

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

[Ex. A, at p. 40.]

1           51. Another “Additional Coverage” provided by the Farmers BOP Policies pursuant to  
2 the Businessowners Special Property Coverage Form is for the loss of Business Income and  
3 necessary Extra Expense caused by action of civil authority, as follows:

4           **5. Additional Coverages**

5           **i. Civil Authority**

6           We will pay for the actual loss of Business Income  
7 you sustain and necessary Extra Expense caused by  
8 action of civil authority that prohibits access to the  
9 described premises due to direct physical loss of or  
10 damage to property, other than at the described  
11 premises, caused by or resulting from any Covered  
12 Cause of Loss.

13           The coverage for Business Income will begin 72  
14 hours after the time of that action and will apply for  
15 a period of up to three consecutive weeks after  
16 coverage begins.

17           The coverage for necessary Extra Expense will  
18 begin immediately after the time of that action and  
19 ends:

- 20           (1) 3 consecutive weeks after the time of that action;  
21           or  
22           (2) When your Business Income coverage ends;  
23           whichever is later.

24           The definitions of Business Income and Extra  
25 Expense contained in the Business Income and  
26 Extra Expense Additional Coverages also apply to  
27 this Civil Authority Additional Coverage. The Civil  
28 Authority Additional Coverage is not subject to the  
Limits of Insurance.

[Ex. A, at p. 41.]

52. The Farmers BOP Policies set forth a number of exclusions – none of which applies  
to Plaintiff or the Class. One of those exclusions, is set forth in Farmers’ Exclusion of Loss Due  
to Virus or Bacteria Endorsement Form (the “Virus Exclusion”), which provides that Farmers  
“will not pay for loss or damage caused by or resulting from any virus, bacterium or other  
microorganism that induces or is capable of inducing physical distress, illness or disease.” [Ex.

1 A, at p. 106, ¶ B.]

2 53. The Virus Exclusion does not, however, exclude the losses claimed by Plaintiff and  
3 the Class here because – as detailed above – those losses were not “caused by or resulting from  
4 any virus”; instead, the efficient proximate cause of the business income losses sustained by  
5 Plaintiff and the Class are the precautionary measures taken by California’s state and local  
6 officials to prevent the spread of COVID-19 – *not* the presence of coronavirus on the property of  
7 Plaintiff or the members of the Class.

8 54. Farmers could have employed broader causation language in the Virus Exclusion –  
9 as it does elsewhere in the Farmers BOP Policies. [See, e.g., Ex. A, at p. 130 (“We will not pay for  
10 loss or damage caused directly or indirectly by an ‘other act of terrorism’. Such loss or damage  
11 is excluded regardless of any other cause or event that contributes concurrently or in any sequence  
12 to the loss.”).] Farmers, however, elected to use the more restrictive causation language (“caused  
13 by or resulting from”) in the Virus Exclusion. As such, by its own terms, the Virus Exclusion  
14 only applies when a virus is the efficient proximate cause of the insured’s loss. That is not the  
15 case here.

16 **D. Farmers Summarily Denies Plaintiff’s Claim For Loss of Business Income,**  
17 **With A Proper Investigation.**

18 55. On April 8, 2020, Plaintiff filed a claim with Farmers requesting coverage under  
19 Plaintiff’s Policy for the business income losses suffered by Plaintiff. On the very same day that  
20 Plaintiff submitted its claim, Farmers informed Plaintiff via telephone that Farmers was denying  
21 Plaintiff’s claim because Plaintiff’s loss of business income was not covered.

22 56. On April 9, 2020, the very next day after Plaintiff submitted its claim, Farmers  
23 followed-up the previous day’s telephone call with a “Claim Outcome Letter.” [Exhibit E.] The  
24 April 9, 2020 letter from Farmers, provided, in relevant part:

25 As we discussed on April 8, 2020, we have reviewed your claim and  
26 determined that there is no coverage for this loss. You reported the  
27 government has shut down or limited the operating capacity of your  
28 business resulting in a business income loss.

1 Unfortunately, there is no coverage found in your policy package for  
2 the business interruption as there is no direct physical loss of or  
3 damage to property at the described premises from a covered cause of  
4 loss.

5 While the government has closed businesses using civil authority for  
6 containment of COVID-19, access to the described premises was not  
7 prohibited due to direct physical loss of or damage to property other  
8 than at the described premises resulting from a covered cause of loss.

9 Lastly, your policy is endorsed to exclude loss or damage caused by  
10 or resulting from any virus that is capable of inducing physical  
11 distress, illness or disease. Due to the below stated policy provisions  
12 we will not be able to extend coverage and we must respectfully deny  
13 your claim.

14 [Ex. E, at p. 1.]

15 57. Plaintiff subsequently retained counsel, who wrote Farmers to request, *inter alia*,  
16 that a Farmers provide a written explanation of the basis relied on in the insurance policy, in  
17 relation to the facts set forth herein, for the denial of Plaintiff's claim.

18 58. Section 2695.7(b)(1) of California's Unfair Claims Practices Regulations provides:

19 Where an insurer denies or rejects a first party claim, in whole or in  
20 part, it shall do so in writing and shall provide to the claimant a  
21 statement listing all bases for such rejection or denial and the factual  
22 and legal bases for each reason given for such rejection or denial  
23 which is then within the insurer's knowledge. Where an insurer's  
24 denial of a first party claim, in whole or in part, is based on a specific  
25 statute, applicable law or policy provision, condition or exclusion, the  
26 written denial shall include reference thereto and provide an  
27 explanation of the application of the statute, applicable law or  
28 provision, condition or exclusion to the claim.

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5)

29 59. As such, as set forth in section 790.03(h)(13) of the Insurance Code, it is an unfair  
30 claim settlement practice for an insurer to fail "to provide promptly a reasonable explanation of  
31 the basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial  
32 of a claim or for the offer of a compromise settlement."

33 60. Despite the requirements of section 790.03 of the Insurance Code and section  
34 2695.7(b)(1) of California's Unfair Claims Practices Regulations, in a letter dated April 23, 2020,



1 Farmers rejected the request of Plaintiff's counsel, writing in relevant part:

2 In your letter, you requested various documents. We've attached  
3 documents we previously provided to our insured. It appears your  
4 letter seeks proprietary information and the request may be subject to  
5 legal interpretation and/or objections. If you need proprietary  
6 information from this claim, please let me know the specific  
information needed and I'll be happy to forward your request to our  
counsel for review.

7 [Exhibit F, at p. 1.]

8 61. Accordingly, Plaintiff was forced to initiate this action to obtain insurance benefits  
9 owed to Plaintiff and the Class by Farmers pursuant to the Farmers BOP Policies.

10

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#### **CLASS ALLEGATIONS**

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62. Plaintiff brings this action on behalf of itself and as a representative of all others  
who are similarly situated. This action satisfies the numerosity, commonality, typicality,  
adequacy, predominance, and superiority requirements of Section 382 of the Code of Civil  
Procedure. Plaintiff seeks certification of a class initially defined as follows:

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*All California Retail/Service Businesses with a Farmers  
Businessowners Policy who, following California's  
Stay-at-Home Order, made a claim with Farmers under  
the policy for lost business income from operations at  
one or more California Covered Premises and who was  
denied coverage (the "Class").*

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63. For purposes of the above class definition, "California Retail/Service Businesses"  
shall consist of any person or entity who is: (i) a citizen of the State of California; (ii) conducts  
retail and/or service business at one or more California Covered Premises; and (iii) whose retail  
and/or service business was not deemed "essential" under California's Stay at Home Orders. A  
"retail business" is generally defined as any business that would fall within the following Major  
Groups of the Standard Industrial Classification (SIC) system: (i) Major Group 53: General  
Merchandise Stores; (ii) Major Group 56: Apparel And Accessory Stores; (iii) Major Group 57:

1 Home Furniture, Furnishings, And Equipment Stores; and (iv) Major Group 59: Miscellaneous  
2 Retail (excluding Industry Group 591: Drug Stores And Proprietary Stores, Industry Group 596:  
3 Nonstore Retailers and Industry Group 598: Fuel Dealers). A “service business” is generally  
4 defined as any business that would fall within the following Major Groups of the SIC system: (i)  
5 Major Group 72: Personal Services (excluding Industry Group 721: Laundry, Cleaning, and  
6 Garment Services and Industry Group 726: Funeral Service and Crematories); Major Group 79:  
7 Amusement And Recreation Services. Specifically excluded from the term “California  
8 Retail/Service Businesses,” is any business that would fall within SIC Major Group 58: Eating  
9 and Drinking Places, which includes, for example, restaurants, bars, and night clubs.

10 64. For purposes of the above class definition, “Farmers Businessowners Policy” shall  
11 consist of any commercial multi-peril insurance policy issued by Farmers (including, specifically,  
12 defendants FIE, Truck and Mid-Century) under Farmers’ “Businessowners Programs” subline of  
13 insurance that: (i) includes Farmers’ Businessowners Special Property Coverage Form (form BP  
14 00 02); (ii) includes Farmers’ Business Income and Extra Expense – Partial Slowdown Coverage  
15 Form (form J7138); (iii) includes Farmers’ Exclusion of Loss Due to Virus or Bacteria  
16 Endorsement Form (form J6316); and (iv) has a policy period which includes some or all of the  
17 period for which the Class member made a claim for loss of Business Income and/or necessary  
18 Extra Expense.

19 65. For purposes of the above class definition, “California Covered Premises” shall  
20 consist of any locations within the State of California from which the Class member operated its  
21 in-person retail or service business that: (i) is “covered premises” or “described premises” in the  
22 Class member’s Farmers Businessowners Policy; (ii) was used to provide in-person retail or in-  
23 person services to members of the public; and (iii) was closed to the public pursuant to one or  
24 more California Stay at Home Orders.

25 66. Excluded from the Class are Defendants, including any entity in which Defendants  
26 have a controlling interest, are a parent or subsidiary, or which are controlled by Defendants, as  
27 well as the officers, directors, affiliates, legal representatives, predecessors, successors, and  
28 assigns of Defendants. Also excluded are the judges and court personnel in this case and any

1 members of their immediate families.

2 67. Plaintiff reserves the right to amend or modify the above class definition with  
3 greater specificity or division into subclasses after having had an opportunity to conduct  
4 discovery.

5 68. This action has been brought and may be properly maintained on behalf of the class  
6 proposed herein under section 382 of the California Code of Civil Procedure.

7 69. Numerosity. The member of each class is so numerous that joinder of all members  
8 is impractical. Plaintiff is informed and believes that there are thousands of members of the Class.  
9 The precise number of class members can be ascertained from Farmers' records.

10 70. Commonality and Predominance. There are questions of law and fact common to  
11 each class, which predominate over any questions affecting individual members of each respective  
12 class. These common questions of law and fact include, without limitation:

- 13 g. Whether the Farmers Businessowners Policies cover claims for loss of Business  
14 Income or necessary Extra Expense under the circumstances alleged herein;
- 15 h. Whether the terms, definitions, and exclusions that Farmers has relied on to deny  
16 coverage to Plaintiff and the Class should be construed in the manner Farmers  
17 claims, or are otherwise unenforceable as a basis for Farmers' denials and must  
18 instead be read to provide coverage under California law;
- 19 i. Whether the virus exclusion endorsement excludes coverage for losses related to  
20 California's Stay at Home Orders;
- 21 j. Whether Farmers breached their agreements with Plaintiff and the Class by denying  
22 their claims for loss of Business Income or necessary Extra Expense;
- 23 k. Whether Farmers breached the implied covenant of good faith and fair dealing in its  
24 handling of the claims for loss of Business Income or necessary Extra Expense by  
25 Plaintiff and the Class;
- 26 l. Whether Plaintiff and the members of the Class have been damaged by the wrongs  
27 complained of herein, and if so, the measure of those damages and the nature and  
28 extent of other relief that should be afforded; and

1 m. Whether the declaratory judgment sought herein is appropriate.

2 71. Typicality. Plaintiff's claims are typical of the claims of the Class it seeks to  
3 represent. Plaintiff and all Class members entered into insurance policy agreements that are  
4 substantially uniform for all purposes relevant to this litigation and were exposed to uniform  
5 practices and policies and sustained injuries arising out of and caused by Farmers' conduct  
6 undertaken pursuant to those uniform practices and policies.

7 72. Adequacy. Plaintiff is committed to the vigorous prosecution of this action and has  
8 retained competent counsel experienced in the prosecution of class actions. Accordingly, Plaintiff  
9 is an adequate representative and will fairly and adequately protect the interests of the Class.

10 73. Superiority. A class action is superior to other available methods for the fair and  
11 efficient adjudication of this controversy. Since the amount of each individual Class member's  
12 claim is small relative to the complexity of the litigation, and due to the financial resources of  
13 Defendants, no Class member could afford to seek legal redress individually for the claims alleged  
14 herein. Therefore, absent a class action, Class members will continue to suffer losses and  
15 Defendants' misconduct will proceed without remedy. Even if Class members themselves could  
16 afford such individual litigation, the court system could not. Given the complex legal and factual  
17 issues involved, individualized litigation would significantly increase the delay and expense to all  
18 parties and to the Court. Individualized litigation would also create the potential for inconsistent  
19 or contradictory rulings. By contrast, a class action presents far fewer management difficulties,  
20 allows claims to be heard which might otherwise go unheard because of the relative expense of  
21 bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and  
22 comprehensive supervision by a single court. Finally, Plaintiff knows of no difficulty that will be  
23 encountered in the management of this litigation which would preclude its maintenance as a class  
24 action.

25 **FIRST CAUSE OF ACTION**

26 **Breach of Contract**

27 **(By Plaintiff and the Class Against Defendants)**

28 74. Plaintiff realleges and incorporates by reference the allegations contained in  
paragraphs 1 through 73, inclusive, of this Complaint, as though fully set forth herein and, to the

1 extent necessary, pleads this cause of action in the alternative.

2 75. Plaintiff brings this claim individually and on behalf of the members of the Class  
3 against Farmers under California law.

4 76. Plaintiff and the Class entered into a contract with Farmers. Pursuant to that  
5 contract, Farmers issued insurance policies (the "BOP Policies") to Plaintiff and the members of  
6 the Class which cover the loss of Business Income sustained by Plaintiff and the Class and the  
7 necessary Extra Expense incurred by Plaintiff and the Class.

8 77. Plaintiff and members of the Class paid consideration in the form of premiums to  
9 Farmers, and have fully performed and satisfied their obligations under the BOP Policies, except  
10 to the extent performance may have been excused by, among other things, Farmer' bad faith  
11 conduct and breach of the BOP Policies.

12 78. Farmers breached the BOP Policies by denying the claims of Plaintiff and the Class  
13 and by failing to pay monies due under the BOP Policies.

14 79. As a direct and proximate result of Farmers' breach of contract, Plaintiff and the  
15 Class have been damaged in an amount to be determined at trial.

16 WHEREFORE, Plaintiff and the Class pray judgment against Defendants as hereafter set  
17 forth.

18 **SECOND CAUSE OF ACTION**

19 **Breach of the Implied Covenant of Good Faith and Fair Dealing**  
20 **(By Plaintiff and the Class Against Defendants)**

21 80. Plaintiff realleges and incorporates by reference the allegations contained in  
22 paragraphs 1 through 79, inclusive, of this Complaint, as though fully set forth herein and, to the  
23 extent necessary, pleads this cause of action in the alternative.

24 81. Plaintiff brings this claim individually and on behalf of the members of the Class  
25 against Farmers under California law.

26 82. Plaintiff and the Class entered into a contract with Farmers. Pursuant to that  
27 contract, Farmers issued insurance policies (the "BOP Policies") to Plaintiff and the members of  
28 the Class which cover the loss of Business Income sustained by Plaintiff and the Class and the  
necessary Extra Expense incurred by Plaintiff and the Class.

1           83. The BOP Policies contained an implied covenant of good faith and fair dealing,  
2 whereby Farmers agreed to perform its obligations under the Policies in good faith, to deal fairly  
3 with Plaintiff and Class members, and not to unreasonably deprive Plaintiff and the members of  
4 the Class of the benefits due under the BOP Policies.

5           84. Farmers tortiously breached its implied covenant of good faith and fair dealing  
6 arising from the BOP Policies by unreasonably withholding benefits due under the BOP Policies,  
7 by failing to conduct a fair and objective claims investigations, by misrepresenting its duties and  
8 obligations under the BOP Policies, by failing to treat Plaintiff and all other similarly situated  
9 insureds consistently, and by unreasonably delaying the final resolution of the claims by Plaintiff  
10 and the members of the Class – all after accepting insurance premiums from Plaintiff and the  
11 Class.

12           85. Despite the demand by Plaintiff and Class members for payment of their loss of  
13 business income and incurred necessary Extra Expense, Farmers refused and continues to refuse  
14 payment and continues to engage in unlawful insurance practices and misrepresentations. Such  
15 bad faith conduct constitutes a continuing tort which is causing Plaintiff and the Class continued  
16 damages.

17           86. Farmers engaged and continues to engage in a course of conduct to further its own  
18 economic interests and in violation of its obligations to Plaintiff and the Class. This conduct  
19 includes, but is not limited the following:

- 20           a. Unreasonably failing to conduct a prompt, fair, balanced and thorough investigation  
21           of all of the bases of Plaintiff and the Class' claims
- 22           b. Unreasonably failing to adopt and implement reasonable standards for the prompt  
23           investigation and processing of the claims asserted by Plaintiff and the Class;
- 24           c. Unreasonably failing to diligently search for and consider evidence that supports  
25           coverage of Plaintiff's and the Class' claims;
- 26           d. Misrepresenting pertinent facts or the provisions in the BOP Policies relating to any  
27           coverages at issue;
- 28           e. Unreasonably failing to provide promptly a reasonable explanation of the basis

1           relied on in the BOP Policies, in relation to the facts or applicable law, for the denial  
2           of the claims by Plaintiff and Class members;

3           f. Deliberately, unreasonably and unjustifiably denying Plaintiff and the Class the full  
4           insurance benefits owed under the BOP Policies;

5           g. Refusing to pay any insurance benefits which a reasonable person would have  
6           believed Plaintiff and the Class were entitled to receive;

7           h. Unreasonably and in bad faith refusing payments to Plaintiff and the Class knowing  
8           that the claims asserted were valid under the BOP Policies;

9           i. Not attempting in good faith to effectuate a prompt, fair and equitable settlement of  
10          the claims for benefits by Plaintiff and the Class where the obligation to pay had  
11          become reasonably clear; and

12          j. Compelling Plaintiff and the Class to incur legal and other expert expenses to obtain  
13          insurance benefits which Farmers knew or reasonably should have known were  
14          owed to Plaintiff and the Class.

15          87. Without any reasonable basis for doing so, and with full knowledge and/or  
16          conscious disregard of the consequences, Farmers has failed and refused to act in good faith or  
17          act fairly toward Plaintiff and the Class and Farmers has, in bad faith, failed and refused to perform  
18          its obligations under the BOP Policies and under the laws of the State of California.

19          88. Farmers' conduct described herein constitutes part of Farmers' overall scheme to  
20          reduce the costs of legitimate insurance claims. Farmers' conduct as described herein constitutes  
21          an illegal pattern and practice so pervasive as to amount to a general unfair and unlawful business  
22          practice.

23          89. As a direct, proximate and legal result of said breaches of the covenant of good faith  
24          and fair dealing by Farmers, Plaintiff and the Class have been, and continue to be, damaged in an  
25          amount according to proof.

26          90. As a further direct and proximate result of the foregoing conduct, Plaintiff has been  
27          required to retain counsel to obtain the benefits due under the BOP Policies – benefits to which it  
28          is entitled as a matter of law. Pursuant to *Brandt v. Superior Court* (1985) 37 Cal.3d 813, Plaintiff



1 is therefore entitled to attorneys' fees and costs reasonably incurred to compel the payment of  
2 benefits due under the BOP Policies.

3 91. The conduct of Farmers as described herein were authorized, condoned, perpetrated  
4 and/or ratified by a managing agent or officer of Farmers. These acts were done with malice,  
5 fraud, oppression, and in reckless disregard of the rights of Plaintiff and the members of the Class.  
6 Further, said actions were despicable in character and warrant the imposition of punitive damages  
7 in a sum sufficient to punish and deter Farmers' future conduct. (Civil Code, § 3294.)

8 WHEREFORE, Plaintiff and the Class pray judgment against Defendants as hereafter set  
9 forth.

10 **THIRD CAUSE OF ACTION**  
11 **DECLARATORY RELIEF**  
12 **[Code Civ. Proc., § 1060]**  
**(By Plaintiff and the Class Against Defendants)**

13 92. Plaintiff realleges and incorporates by reference the allegations contained in  
14 paragraphs 1 through 91, inclusive, of this Complaint, as though fully set forth herein and, to the  
15 extent necessary, pleads this cause of action in the alternative.

16 93. Plaintiff brings this claim individually and on behalf of the members of the Class  
17 against Farmers pursuant to sections 1060 *et seq.* of the California Code of Civil Procedure.

18 94. Section 1060 of the Code of Civil Procedure permits "[a]ny person interested [...]  
19 under a contract [...] who desires a declaration of his or her rights or duties with respect to another  
20 [...], may, in cases of actual controversy relating to the legal rights and duties of the respective  
21 parties, bring an original action [...] in the superior court for [...] a determination of any question  
22 of construction or validity arising under the instrument or contract."

23 95. An actual controversy has arisen and now exists between Plaintiff and other  
24 members of the Class, on the one hand, and Farmers, on the other hand. Plaintiff and Class  
25 members maintain that Farmers has breached the BOP Policies as alleged hereinabove and that  
26 Farmers owes benefits for lost business income under the BOP Policies. Farmers contends that it  
27 has not breached the BOP Policies, and that Plaintiff and the Class are not entitled to benefits for  
28 loss of Business Income and necessary Extra Expense under the BOP Policies.

96. Plaintiff desires a judicial determination and declaration of the respective rights and duties as between it and Farmers under the BOP Policies.

97. Such a declaration is necessary to determine the respective rights and obligations existing between the parties, to protect the rights of Plaintiff and of the members of the Class against Farmers, and to avoid a multiplicity of suits.

WHEREFORE, Plaintiff and the Class prays judgment against Defendants as hereafter set forth.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully request that the Court enter judgment against Defendants, as follows:

1. An order certifying appropriate classes and/or subclasses, designating Plaintiff as the class representatives and its counsel as class counsel;

2. On the First Cause of Action, for damages in an amount to be proven at trial, together with interest thereon;

3. On the Second Cause of Action, for damages in an amount to be proven at trial, together with interest thereon; attorneys' fees and litigation costs pursuant to *Brandt v. Superior Court* (1985) 37 Cal.3d 813; and punitive damages, in an amount sufficient to punish Defendants, make an example of them, and deter future unlawful conduct pursuant to section 3294 of the Civil Code;

4. On the Third Cause of Action, for a judicial declaration of the parties' respective rights and obligations under the BOP Policies;

5. For costs of suit;

6. For reasonable attorneys' fees; and

7. For such other and further relief as the Court may deem just and appropriate.

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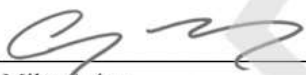
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Dated: May 23, 2020

ARIAS, SANGUINETTI, WANG  
& TORRIJOS, LLP

By:   
Mike Arias  
Alfredo Torrijos  
Christopher A.J. Swift

THE WALLACE FIRM, PC  
Bradley S. Wallace

*Counsel for Plaintiff and the Proposed Class*


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**DEMAND FOR JURY TRIAL**

Plaintiff, individually and on behalf of all others similarly situated, hereby demands a trial by jury of any and all issues in this action so triable of right.

Dated: May 23, 2020

ARIAS, SANGUINETTI, WANG  
& TORRIJOS, LLP

By:   
Mike Arias  
Alfredo Torrijos  
Christopher A.J. Swift

THE WALLACE FIRM, PC  
Bradley S. Wallace

*Counsel for Plaintiff and the Proposed Class*