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10 ANCHORS AND WHALES LLC d/b/a POPS  
CLUBHOUSE; BROOKLYN ROSE, LLC  
11 d/b/a THE HA-RA CLUB; 55 LOUIE'S SF  
LLC d/b/a LOUIE'S; LITTLE'S LLC d/b/a  
12 CONNECTICUT YANKEE; LO POC GROUP  
LLC d/b/a FLY BAR DIVISADERO;  
13 MAGGIE MCGARRY'S, INC. d/b/a MAGGIE  
MCGARRY'S BAR; NAMU STONEPOT LLC  
14 d/b/a STONEPOT DIVISADERO AND  
STONEPOT DOLORES PARK; R BAR, INC.  
15 d/b/a R BAR; TOE DIPPING LLC d/b/a  
PEACEKEEPER; UPDOG LLC d/b/a MAKE  
16 WESTING; THE WELSHMAN GROUP LLC  
d/b/a FISHBOWL

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 FOR THE CITY AND COUNTY OF SAN FRANCISCO

19 ANCHORS AND WHALES LLC d/b/a  
20 POPS CLUBHOUSE; BROOKLYN ROSE,  
LLC d/b/a THE HA-RA CLUB; 55  
21 LOUIE'S SF LLC d/b/a LOUIE'S;  
LITTLE'S LLC d/b/a CONNECTICUT  
22 YANKEE; LO POC GROUP LLC d/b/a  
FLY BAR DIVISADERO; MAGGIE  
23 MCGARRY'S, INC. d/b/a MAGGIE  
MCGARRY'S BAR; NAMU STONEPOT  
24 LLC d/b/a STONEPOT DIVISADERO  
AND STONEPOT DOLORES PARK; R  
25 BAR, INC. d/b/a R BAR; TOE DIPPING  
LLC d/b/a PEACEKEEPER; UPDOG LLC  
26 d/b/a MAKE WESTING; THE  
WELSHMAN GROUP LLC d/b/a  
27 FISHBOWL,

28 Plaintiffs,

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**03/23/2021**  
Clerk of the Court  
BY: KALENE APOLONIO  
Deputy Clerk

**CGC-21-590559**

Case No.

**CLASS ACTION COMPLAINT FOR  
DECLARATORY RELIEF, BREACH  
OF CONTRACT, AND BREACH OF  
THE IMPLIED COVENANT OF  
GOOD FAITH AND FAIR DEALING**

**DEMAND FOR JURY TRIAL**

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v.  
CRUSADER INSURANCE COMPANY;  
and DOES 1-10, Inclusive,  
Defendants.

1 Plaintiffs Anchors and Whales LLC d/b/a Pops Clubhouse (“Pops Clubhouse”);  
2 Brooklyn Rose, LLC d/b/a The Ha-Ra Club (“Ha-Ra Club”); 55 Louie’s SF LLC d/b/a  
3 Louie’s (“Louie’s”); Little’s LLC d/b/a Connecticut Yankee (“Connecticut Yankee”); Lo Poc  
4 Group LLC d/b/a Fly Bar Divisadero (“Fly Bar”); Maggie McGarry’s, Inc. d/b/a Maggie  
5 McGarry’s Bar (“Maggie McGarry’s”); Namu Stonepot LLC d/b/a Stonepot Divisadero and  
6 Stonepot Dolores Park (“Namu Stonepot”); R Bar, Inc. d/b/a R Bar (“R Bar”); Toe Dipping  
7 LLC d/b/a Peacekeeper (“Peacekeeper”); Updog LLC d/b/a Make Westing (“Make  
8 Westing”); and The Welshman Group LLC d/b/a Fishbowl (“Fishbowl”), bring this action  
9 against Defendant Crusader Insurance Company (“Crusader”). Plaintiffs allege as follows:

10 **I. INTRODUCTION**

11 1. As the global pandemic brought emergency orders and shutdowns, Crusader  
12 in collaboration with other insurers nationwide responded to its insureds’ urgent tender  
13 for all coverages with a novel requirement to trigger coverage. Crusader and other  
14 insurers flatly stated that a pandemic does not cause “property damage.” The policies  
15 provide coverage for all risks in the event of any direct physical loss of or damage to  
16 property causing business interruption. By taking the position that that coverage is  
17 triggered only by the insurers’ definition of “property damage,” Crusader presents a novel  
18 position that the term “loss” is superfluous. This makes business interruption coverage for  
19 a “loss” illusory.

20 2. Crusader policies are “all risk” policies issued by Crusader to Plaintiffs.  
21 Logically, insurance does not apply if there is no event causing loss or damage; however to  
22 avoid having to pay these pandemic related business interruption claims, Crusader and  
23 other insurers pulled this entirely new requirement for coverage out of thin air—that  
24 property damage as only they define it after the fact triggers coverage. Bizarrely, Crusader  
25 has also characterized the COVID-19 pandemic as a mold and mildew problem to avoid  
26 paying claims. In some of the policies issued to Crusaders’ insureds, there is a so-called  
27 “virus exclusion” but what that actually means is speculative. Naturally, the insurance  
28 companies want it to mean what they say it means, ignoring the fact that a “pandemic

1 exclusion,” something that would have been applicable to the claims at issue here, was  
2 available to be included in their policy, instead or in addition to the so-called virus  
3 exclusion. But for Crusader, it doesn’t matter which exclusion the policies have, whether it  
4 purports to exclude losses caused by “mold” or “virus.” In the coverage determinations,  
5 the two are synonymous, which renders them ambiguous because they do not say the same  
6 thing. In this case, any ambiguous policy language must be construed in favor of the  
7 insured as a matter of law.

8           3.       The pandemic caught the world unprepared. No one expected the cascade of  
9 events that came about as it unfolded. Insurers have so far avoided paying business  
10 interruption claims and continue to deny claims wholesale. They have adopted a novel  
11 and aggressive “no property damage” argument to exclude coverage and seek to define the  
12 scope of coverage after the loss instead of when the insured purchased the policy, which is,  
13 by law, when it should be defined. As businesses closed their doors across the state of  
14 California, the insurers framed the reasons why all insurance coverage would be denied so  
15 no insurer would be assisting any of Plaintiffs’ bars or restaurants with the insurance  
16 coverage they rely on. There is no safety net for business owners except the insurance they  
17 buy. Business owners have held up their end of the deal by paying the premiums charged  
18 by Crusader, but Crusader refuses to honor their contractual obligations.

19           4.       On March 16, 2020, the City and County of San Francisco and Alameda  
20 County issued Shelter in Place orders requiring all residents to remain at home, with  
21 limited exceptions for essential activities, outdoor activities, additional activities, or  
22 essential travel, or to perform work for essential businesses, outdoor businesses,  
23 additional businesses, and government agencies (the “SIP Orders”). The SIP Orders,  
24 issued in response to the COVID-19 pandemic and in order to curb the spread of COVID-  
25 19, required all non-essential businesses to cease all activities at facilities located within  
26 counties except for Minimum Basic Operations.

27           5.       On March 19, 2020, California issued Executive Order N-33-20, ordering  
28 that, “[t]o protect public health, . . . all individuals living in the State of California [must]

1 stay home or at their place of residence except as needed to maintain continuity of  
2 operations of the federal infrastructure sectors . . . .”

3           6.       Under the terms of the SIP Orders, Executive Order N-33-20, and other  
4 directives issued by local governments in response to the COVID-19 pandemic  
5 (collectively, “Governmental Orders”), restaurants and bars in California were forced to  
6 limit or cease their operations. Restaurants in San Francisco and in Alameda County were  
7 only allowed to prepare and serve food for take-out or delivery. Bars that did not serve  
8 food were ordered to close completely.

9           7.       In compliance with the SIP Orders, Plaintiffs have had to suspend their  
10 business operations. As a result, they have suffered severe financial harm.

11           8.       Plaintiffs, along with other bars and restaurants in California, purchased  
12 comprehensive business insurance policies from Crusader and dutifully paid thousands of  
13 dollars in premiums. In exchange, Crusader promised to provide Plaintiffs with protection  
14 against loss of property, and, importantly, loss of business income.

15           9.       After being forced to shutter their businesses, Plaintiffs, along with other  
16 bars and restaurants that purchased insurance from Crusader, filed claims for business  
17 interruption coverage.

18           10.      However, instead of providing coverage, Crusader quickly denied the claims  
19 and issued denial letters after conducting little to no investigation. These cursory denials  
20 appear to be based on an unreasonably narrow interpretation of the coverage provided  
21 under the policies and an overbroad application of coverage exclusions.

22           11.      Rather than receiving the coverage they purchased and reasonably expected  
23 to receive from Crusader, Crusader’s insureds now find themselves in dire financial straits  
24 and face the possibility of having to close their businesses permanently.

25           12.      Plaintiffs now bring this action, on behalf of themselves and other  
26 restaurants and bars in California, seeking declaratory relief, the coverage owed to them  
27 under Crusader’s policy, and for damages caused by Crusader’s unreasonable denials of  
28 their claims.

1 **II. FACTUAL BACKGROUND**

2 13. In January 2020, news outlets began reporting an outbreak of a novel strain  
3 of coronavirus (COVID-19) originating in Wuhan, China.

4 14. On January 30, 2020, following the discovery that COVID-19 had spread  
5 outside China, the Director-General of the World Health Organization declared that the  
6 outbreak of COVID-19 constituted a Public Health Emergency of International Concern.

7 15. On March 11, 2020, the World Health Organization, citing concerns over the  
8 alarming levels of spread and severity of the virus, characterized COVID-19 as a global  
9 pandemic. This pandemic has been exacerbated by the fact that coronaviruses have been  
10 known to infect and remain on surfaces of objects or materials—“fomites”—for up to 28  
11 days and that contamination of such objects can result in indirect transmission of COVID-  
12 19.

13 16. As evidenced by the foregoing, it is widely understood that the presence of  
14 COVID-19 is physically impacting public and private property, and that it causes physical  
15 loss of and damage to property.

16 17. One of the strategies recommended by public health officials to slow the  
17 spread of COVID-19 is the use of population-wide social distancing measures to restrict  
18 movements of the population in order to maintain physical space between people.

19 18. On March 16, 2020, the City and County of San Francisco and Alameda  
20 County, along with four other Bay Area counties, announced the SIP Orders directing all  
21 residents to stay inside their homes and away from others as much as possible in an  
22 attempt to curb the spread of COVID-19. At the time, the SIP Orders were the strictest  
23 measures of their kind yet in the continental United States. The SIP Orders went into  
24 effect at 12:01 a.m. on March 17, 2020.

25 19. Businesses that did not provide services deemed “essential” under the SIP  
26 Orders were required to close, including all bars and nightclubs. Restaurants were  
27 permitted to remain open for takeout and delivery only.

28

1           20.     Although the mandates imposed by the SIP Orders have been modified  
2 several times, the SIP Orders remain in place as of the filing of this complaint.

3           21.     Plaintiffs own and operate bars and restaurants in San Francisco and  
4 Oakland, California. Prior to the issuance of the SIP Orders, Plaintiffs generated the vast  
5 majority of their revenue from the on-premises sale of food, cocktails, wine, and beer.

6           22.     On or around March 17, 2020, as a result of the global pandemic and in  
7 compliance with the SIP Orders and in order to prevent the spread of COVID-19 from the  
8 presence of the virus and/or infected persons on their premises, Plaintiffs suspended their  
9 operations, closing their businesses completely, or operating under restrictions that  
10 severely limited their use of their premises.

11           23.     Thus, the global pandemic and compliance with the SIP Orders and the  
12 presence of the COVID-19 virus on Plaintiffs' property have caused and continue to cause  
13 direct physical loss of Plaintiffs' insured property in that much of it has been rendered  
14 useless or uninhabitable, and its functionality has been severely reduced or eliminated.

### 15 **III. PLAINTIFFS' INSURANCE CLAIMS**

#### 16 **A. Pops Clubhouse**

17           24.     Pops Clubhouse operates a bar located in the Mission District neighborhood  
18 of San Francisco, California.

19           25.     Pops Clubhouse purchased a comprehensive business insurance policy  
20 issued by Crusader (Policy No. CIC-237585) that covers the period from September 16,  
21 2019 to September 16, 2020. The policy includes business income and extra expense  
22 coverage with a total limit of \$1,000,000, as well as additional "civil authority" coverage.

23           26.     On or around March 17, 2020, Pops Clubhouse suspended its operations in  
24 response to the SIP Orders and the presence of the COVID-19 virus on and around its  
25 premises.

26           27.     On March 17, 2020, Pops Clubhouse tendered a claim to Crusader for lost  
27 business income.

28           28.     On March 24, 2020, Crusader denied Pops Clubhouse's claim.

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**B. Ha-Ra Club**

29. Ha-Ra operates a bar located in the Tenderloin neighborhood of San Francisco, California.

30. Ha-Ra purchased a comprehensive business insurance policy issued by Crusader (Policy No. CIC-237388) that covers the period from August 27, 2019 to August 27, 2020. The policy includes business income and extra expense coverage with a total limit of \$1,000,000, as well as additional “civil authority” coverage.

31. On or around March 17, 2020, Ha-Ra suspended its operations in response to the SIP Orders and the presence of the COVID-19 virus on and around its premises.

32. On June 25, 2020, Ha-Ra tendered a claim to Crusader for lost business income.

33. On July 31, 2020, Crusader denied Ha-Ra’s claim.

**C. Louie’s**

34. Louie’s operates a bar located in the SoMa neighborhood of San Francisco, California.

35. Louie’s purchased a comprehensive business insurance policy issued by Crusader (Policy No. CIC-239458) that covers the period from February 16, 2020 to February 16, 2021. The policy includes business income and extra expense coverage with a total limit of \$1,000,000, as well as additional “civil authority” coverage.

36. On or around March 17, 2020, Louie’s suspended its operations in response to the SIP Orders and the presence of the COVID-19 virus on and around its premises.

37. On or around May 27, 2020, Louie’s tendered a claim to Crusader for lost business income.

38. Crusader denied Louie’s claim.

**D. Connecticut Yankee**

39. Connecticut Yankee operates a bar located in the Potrero Hill neighborhood of San Francisco, California.

1           40.     Connecticut Yankee purchased a comprehensive business insurance policy  
2 issued by Crusader (Policy No. CIC-237860) that covers the period from October 17, 2019  
3 to October 17, 2020. The policy includes business income and extra expense coverage with  
4 a total limit of \$1,000,000, as well as additional “civil authority” coverage.

5           41.     On or around March 17, 2020, Connecticut Yankee suspended its operations  
6 in response to the SIP Orders and the presence of the COVID-19 virus on and around its  
7 premises.

8           42.     On or around April 30, 2020, Connecticut Yankee tendered a claim to  
9 Crusader for lost business income.

10          43.     On June 24, 2020, Crusader denied Connecticut Yankee’s claim.

11          **E.     Fly Bar**

12          44.     Fly Bar operates a bar located in the Alamo Square neighborhood of San  
13 Francisco, California.

14          45.     Fly Bar purchased a comprehensive business insurance policy issued by  
15 Crusader (Policy No. CIC-236009) that covers the period from May 13, 2019 to May 13,  
16 2020. The policy includes business income and extra expense coverage with a total limit  
17 of \$1,000,000, as well as additional “civil authority” coverage.

18          46.     On or around March 16, 2020, Fly Bar suspended its operations in response  
19 to the SIP Orders and the presence of the COVID-19 virus on and around its premises.

20          47.     On or around March 31, 2020, Fly Bar tendered a claim to Crusader for lost  
21 business income.

22          48.     Crusader denied Fly Bar’s claim.

23          **F.     Maggie McGarry’s**

24          49.     Maggie McGarry’s operates a bar located in the North Beach neighborhood  
25 of San Francisco, California.

26          50.     Maggie McGarry’s purchased a comprehensive business insurance policy  
27 issued by Crusader (Policy No. CIC-238260) that covers the period from October 28, 2019  
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1 to October 28, 2020. The policy includes business income and extra expense coverage  
2 with a total limit of \$50,000, as well as additional “civil authority” coverage.

3 51. On or around March 17, 2020, Maggie McGarry’s suspended its operations  
4 in response to the SIP Orders and the presence of the COVID-19 virus on and around its  
5 premises.

6 52. On April 7, 2020, Maggie McGarry’s tendered a claim to Crusader for lost  
7 business income.

8 53. On May 11, 2020, Crusader denied Maggie McGarry’s claim.

9 **G. Namu Stonepot**

10 54. Namu Stonepot operates two restaurants located in San Francisco,  
11 California.

12 55. Namu Stonepot purchased two comprehensive property insurance policies  
13 issued by Crusader (Policy Nos. CIC-236939 and 236941) both of which covered the  
14 period from July 23, 2019 to July 23, 2020. The policies include business income and  
15 extra expense coverage with a total limit of \$1,000,000, as well as additional “civil  
16 authority” coverage.

17 56. On or around March 17, 2020, Namu Stonepot suspended its operations and  
18 closed its two dining rooms in response to the SIP Orders and the presence of the COVID-  
19 virus on and around its premises.

20 57. On September 11, 2020, Namu Stonepot tendered claims to Crusader for lost  
21 business income.

22 58. On September 29, 2020, Crusader requested Sworn Statements in Proof of  
23 Loss from Namu Stonepot, which Namu Stonepot provided on December 3, 2020.

24 59. On December 31, 2020, Crusader denied Namu Stonepot’s claims.

25 **H. R Bar**

26 60. R Bar operates a bar located in the Lower Nob Hill neighborhood of San  
27 Francisco, California.

1           61.     R Bar purchased a comprehensive business insurance policy issued by  
2 Crusader (Policy No. CIC-238520) that covers the period from November 22, 2019 to  
3 November 22, 2020. The policy includes business income and extra expense coverage  
4 with a total limit of \$1,000,000, as well as additional “civil authority” coverage.

5           62.     On or around March 17, 2020, R Bar suspended its operations in response to  
6 the SIP Orders and the presence of the COVID-19 virus on and around its premises.

7           63.     On August 28, 2020, R Bar tendered a claim to Crusader for lost business  
8 income.

9           64.     On September 28, 2020, Crusader denied R Bar’s claim.

10           **I.     Peacekeeper**

11           65.     Peacekeeper operates a bar located in the Lower Nob Hill neighborhood San  
12 Francisco, California.

13           66.     Peacekeeper purchased a comprehensive business insurance policy issued by  
14 Crusader (Policy No. CIC-235468) that covers the period from April 10, 2019 to April 10,  
15 2020. The policy includes business income and extra expense coverage with a total limit  
16 of \$1,000,000, as well as additional “civil authority” coverage.

17           67.     On or around March 17, 2020, Peacekeeper suspended its operations in  
18 response to the SIP Orders and the presence of the COVID-19 virus on and around its  
19 premises.

20           68.     On March 27, 2020, Peacekeeper tendered a claim to Crusader for lost  
21 business income.

22           69.     Crusader did not respond to the claim until June 26, 2020, when  
23 Peacekeeper’s insurance broker called to follow up on the claim. Crusader denied  
24 Peacekeeper’s claim on August 3, 2020.

25           **J.     Make Westing**

26           70.     Make Westing operates a cocktail lounge located in the Uptown  
27 neighborhood of Oakland, California.

1           71.     Make Westing purchased a comprehensive business insurance policy issued  
2 by Crusader (Policy No. CIC-237031) that covers the period from August 1, 2019 to August  
3 1, 2020. The policy includes business income and extra expense coverage with a total limit  
4 of \$1,000,000, as well as additional “civil authority” coverage.

5           72.     On or around March 17, 2020, Make Westing suspended its operations in  
6 response to the SIP Orders and the presence of the COVID-19 virus on and around its  
7 premises.

8           73.     On April 3, 2020, Make Westing tendered a claim to Crusader for lost  
9 business income.

10          74.     On April 22, 2020, Crusader denied Make Westing’s claim.

11           **K.     Fishbowl**

12          75.     Fishbowl operates a bar located in the Lower Pacific Heights neighborhood  
13 San Francisco, California.

14          76.     Fishbowl purchased a comprehensive business insurance policy issued by  
15 Crusader (Policy No. CIC-239686) that covers the period from March 8, 2020 to March 8,  
16 2021. The policy includes business income and extra expense coverage with a total limit of  
17 \$1,000,000, as well as additional “civil authority” coverage.

18          77.     On or around March 16, 2020, Fishbowl suspended its operations in  
19 response to the SIP Orders and the presence of the COVID-19 virus on and around its  
20 premises.

21          78.     On March 25, 2020, Fishbowl tendered a claim to Crusader for lost business  
22 income.

23          79.     Crusader denied Fishbowl’s claim on May 21, 2020.

24           **IV.    CRUSADER’S PATTERN OF DENIALS**

25          80.     As an insurer, Crusader has an obligation to fully investigate claims made by  
26 its insureds. In the case of Plaintiffs’ claims for loss of business income, Crusader’s  
27 investigation was anything but thorough.

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1           81. Crusader’s investigation of Plaintiffs’ claims consisted primarily of telephone  
2 calls with its insureds. During these calls, Crusader, or its claims administrator, U.S. Risk  
3 Managers, asked its insureds whether or not they could detect the presence of the COVID-  
4 19 virus on their property even though Crusader knew that there was no way for its  
5 insureds to detect the virus without a microscope or other specialized equipment.

6           82. Crusader’s line of questioning made it clear that it was only conducting  
7 cursory investigations in order to justify its anticipated denials of Plaintiffs’ claims.  
8 Crusader never sent any investigators to Plaintiffs’ property or conducted any physical  
9 examinations that would have allowed it to determine whether the COVID-19 virus was  
10 present.

11           83. Crusader breached its duty to Plaintiffs by trying to elicit admissions  
12 regarding the purported lack of property damage instead of conducting a reasonable  
13 investigation.

14           84. After speaking with Plaintiffs, Crusader swiftly issued form denial letters  
15 which often cited their conversations with Plaintiffs as the basis for the denial.

16           85. Plaintiffs are informed and believe that their experiences with Crusader are  
17 similar to the experiences of other bars and restaurants that were insured by Crusader and  
18 had claims for loss of business income denied.

19 **V. PARTIES**

20           86. Plaintiff Anchors and Whales LLC d/b/a Pops Clubhouse is a limited liability  
21 company formed under the laws of California with its principal place of business in San  
22 Francisco, California.

23           87. Plaintiff Brooklyn Rose, LLC d/b/a The Ha-Ra Club is a limited liability  
24 company formed under the laws of California with its principal place of business in San  
25 Francisco, California.

26           88. Plaintiff 55 Louie’s SF LLC d/b/a Louie’s is a limited liability company  
27 formed under the laws of California with its principal place of business in San Francisco,  
28 California.

1           89. Plaintiff Little’s LLC d/b/a Connecticut Yankee is a limited liability company  
2 formed under the laws of California with its principal place of business in San Francisco,  
3 California.

4           90. Plaintiff Lo Poc Group LLC d/b/a Fly Bar Divisadero is a limited liability  
5 company formed under the laws of California with its principal place of business in San  
6 Francisco, California.

7           91. Plaintiff Maggie McGarry’s, Inc. d/b/a Maggie McGarry’s Bar is a  
8 corporation organized under the laws of California with its principal place of business in  
9 San Francisco, California.

10          92. Plaintiff Namu Stonepot LLC d/b/a Stonepot Divisadero and Stonepot  
11 Dolores Park is a limited liability company formed under the laws of California with its  
12 principal place of business in San Francisco, California.

13          93. Plaintiff R Bar, Inc. d/b/a R Bar is a corporation organized under the laws of  
14 California with its principal place of business in San Francisco, California.

15          94. Plaintiff Toe Dipping LLC d/b/a Peacekeeper is a limited liability company  
16 formed under the laws of California with its principal place of business in San Francisco,  
17 California.

18          95. Plaintiff Updog LLC d/b/a Make Westing is a limited liability company  
19 formed under the laws of California with its principal place of business in Oakland,  
20 California.

21          96. Plaintiff The Welshman Group LLC d/b/a Fishbowl is a limited liability  
22 company formed under the laws of California with its principal place of business in San  
23 Francisco, California.

24          97. Defendant Crusader Insurance Company is a corporation organized under  
25 laws of California with its principal place of business in Calabasas, California.

26          98. The true names and capacities of Defendants Does 1 to 10 are unknown and  
27 therefore sued by fictitious names. Each of the Doe defendants is, in some manner,  
28 responsible for the damages alleged.

1           99. Each of the defendants was acting as the agent, employee, alter-ego, co-  
2 conspirator, partner, parent, subsidiary, co-obligor, assignee, joint venture, and/or joint  
3 tortfeasor with each of the other defendants. Each defendant authorized, ratified,  
4 approved, and/or planned the actions and/or lack of actions of the other defendants. Each  
5 of the defendants is legally responsible for the acts of the other defendants on a vicarious  
6 liability and/or *respondeat superior* basis. Each defendant is in some manner legally  
7 responsible for the acts of each of the other defendants and is therefore responsible for  
8 injuries and damages alleged in this complaint.

9 **VI. JURISDICTION AND VENUE**

10           100. Venue is proper in this court under California Code of Civil Procedure §395.5  
11 because a substantial part of the events or omissions giving rise to Defendant's liability  
12 occurred in San Francisco, California.

13 **VII. CLASS ACTION ALLEGATIONS**

14           101. Plaintiffs bring this action on behalf of themselves and the Class, defined as:  
15 All bars and restaurants in California that

- 16           a. purchased comprehensive insurance policies from Crusader which  
17           include coverage for business interruption;
- 18           b. suffered a loss of insured property as a direct result of one or more  
19           Governmental Orders and the presence of the COVID-19 virus on the  
20           property;
- 21           c. filed a claim for lost business income; and
- 22           d. were denied coverage by Crusader.

23           102. Excluded from the class are the officers, directors, and employees of  
24 Crusader, and any entity in which Crusader has a controlling interest. Also excluded are  
25 any judge or judicial officer presiding over this action, and the members of their  
26 immediate families and judicial staff.

27           103. This action is brought and may properly be maintained as a class action  
28 pursuant to Code of Civil Procedure section 382.

1           104. The Class is so numerous that joinder of all members is impracticable.  
2 Crusader insures bars and restaurants throughout the state of California, and, on  
3 information and belief, its insureds number in the thousands. While the precise number  
4 of Class members is unknown to Plaintiffs at this time, it likely numbers in the hundreds  
5 or more. The Class members can be individually identified through Crusader's  
6 policyholder records.

7           105. There is well-defined community of interest among the members of the  
8 Class. Plaintiffs, like other members of the Class, (1) operate bars and restaurants that  
9 generate a substantial portion of their income through the on-premises sale of food,  
10 cocktails, wine, and beer, (2) suffered significant losses of business income as a result of  
11 the Governmental Orders and the COVID-19 virus, and (3) had their insurance claims for  
12 loss of business income denied by Crusader.

13           106. There are numerous questions of law and fact common to the members of  
14 the Class which predominate over any questions affecting only individual members,  
15 including:

- 16           a. Whether Crusader's comprehensive insurance policies cover claims  
17           for lost business income under the circumstances presented here;
- 18           b. Whether the terms, definitions, and exclusions that Crusader has  
19           relied on to deny coverage can be reasonably construed in the manner  
20           Crusader claims, or, instead must be construed to provide coverage;
- 21           c. Whether it is reasonable for Crusader's insureds to expect that the  
22           mold exclusion endorsement bars coverage for losses caused by a  
23           pandemic and any of the Governmental Orders and the COVID-19  
24           virus;
- 25           d. Whether it is reasonable for Crusader's insureds to expect that the  
26           virus exclusion endorsement bars coverage for losses caused by a  
27           pandemic and any of the Governmental Orders and the COVID-19  
28           virus;

- 1 e. Whether any exclusions cited by Crusader are ambiguous as applied
- 2 to a pandemic when standard form pandemic exclusions exist for any
- 3 insurer to include as standard policy language;
- 4 f. Whether the acts or decisions exclusion bars coverage for losses
- 5 caused by the pandemic or any of the Governmental Orders and the
- 6 COVID-19 virus;
- 7 g. Whether ordinance or law exclusion bars coverage for losses caused
- 8 by the pandemic or any of the Governmental Orders and the COVID-
- 9 19 virus;
- 10 h. Whether Crusader breached the implied covenant of good faith and
- 11 fair dealing in its handling of claims;
- 12 i. Whether Crusader breached the implied covenant of good faith and
- 13 fair dealing in denying claims for loss of business income without
- 14 investigating or duly considering the claims.

15 107. Plaintiffs' claims are typical of the claims of the Class. Each Plaintiff and  
16 each Class member had its property rendered useless or uninhabitable, and had its  
17 functionality severely reduced or eliminated as a direct result of the pandemic, one or  
18 more Governmental Orders and the presence of the COVID-19 virus on the property. Each  
19 Plaintiff and each Class member had its insurance claim for loss of business income  
20 denied by Crusader.

21 108. Plaintiffs will fairly and adequately protect the interests of the Class, as they  
22 have no conflict of interest with the other members of the Class, and they have retained  
23 counsel competent in insurance coverage and class action litigation to represent the  
24 interests of Plaintiffs and their fellow class members.

25 109. A class action is superior to other available methods for fairly and efficiently  
26 adjudicating the controversy, which arises out of the interpretation and application of  
27 insurance policy terms drafted by Crusader and which are applicable to each Class  
28 member. There are no unusual difficulties in managing the litigation as a class action.

1 **VIII. CAUSES OF ACTION**

2 **First Cause of Action**

3 **(Declaratory Judgment)**

4 110. Plaintiffs reallege the paragraphs above as if fully set forth herein. Plaintiffs  
5 bring this cause of action against Crusader.

6 111. Plaintiffs purchased comprehensive business insurance policies from  
7 Crusader that insured against all risks of physical damage or loss (unless excluded) to their  
8 property. The policy also insured against loss of business income and covered extra  
9 expenses sustained during a suspension of business operations resulting from covered loss  
10 or damage.

11 112. On March 16, 2020, the City and County of San Francisco and Alameda  
12 County issued the SIP Orders which required restaurants to close, except for takeout and  
13 delivery, and required bars that did not serve food to close completely.

14 113. As a direct result of the SIP Orders and the presence of the COVID-19 virus,  
15 Plaintiffs' covered property was been rendered useless or uninhabitable, and its  
16 functionality was been severely reduced or eliminated.

17 114. However, Crusader has taken the position that it owes Plaintiffs no duty to  
18 provide coverage under their comprehensive business insurance policies for the business  
19 income they have lost and extra expenses they have incurred as a result of the pandemic  
20 and loss and damage caused by the SIP Orders and the COVID-19 virus.

21 115. A dispute has arisen as to the rights and responsibilities of the parties under  
22 the policies issued by Crusader and such dispute is ripe for adjudication.

23 116. Therefore, Plaintiffs request a declaration that the insurance policies issued  
24 by Crusader provide coverage for Plaintiffs' business income losses and that such coverage  
25 is not precluded by any exclusions or limitations contained in the policies.

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1 **Second Cause of Action**  
2 **(Breach of Contract)**

3 117. Plaintiffs reallege the paragraphs above as if fully set forth herein. Plaintiffs  
4 brings this cause of action against Crusader and Does 1 to 10.

5 118. Plaintiffs purchased comprehensive business insurance policies from  
6 Crusader that insured against all risks of physical damage or loss (unless excluded) to their  
7 property. The policies also insured against loss of business income and covered extra  
8 expenses sustained during the suspension of business operations resulting from covered  
9 loss or damage.

10 119. Plaintiffs have duly performed all terms, conditions, covenants and promises  
11 they were required to perform under the terms and conditions of its policy, except for  
12 those terms, conditions, covenants and/or promises which were excused, waived, or  
13 prevented from being performed, or otherwise discharged. This includes paying all  
14 premiums required to maintain coverage under their policies.

15 120. On March 16, 2020, the City and County of San Francisco and Alameda  
16 County issued the SIP Orders which required restaurants to close, except for takeout and  
17 delivery, and required bars that did not serve food to close completely.

18 121. Beginning on March 17, 2020, and continuing through the date of this  
19 complaint, Plaintiffs suffered a direct physical loss of property and have lost business  
20 income as a direct result of the pandemic, SIP Orders and the COVID-19 virus.

21 122. Plaintiffs' losses are covered under the comprehensive business insurance  
22 policies they purchased from Crusader and there are no exclusions or limitations in  
23 Plaintiffs' policies that would preclude coverage for their losses.

24 123. Defendants breached their contractual obligations to Plaintiffs under the  
25 insurance policies by denying Plaintiffs' insurance claims.

26 124. As a result of Defendants' breach of their obligations, Plaintiffs have  
27 sustained damages, including but not limited to, loss of policy benefits, in an amount to be  
28 proven at trial.

1 **Third Cause of Action**

2 **(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

3 125. Plaintiffs reallege the paragraphs above as if fully set forth herein. Plaintiffs  
4 bring this cause of action against Crusader and Does 1 to 10.

5 126. The insurance policies issued by Crusader are subject to an implied covenant  
6 of good faith and fair dealing that all parties will act in good faith and with reasonable  
7 efforts to perform their contractual duties and not impair the rights of other parties to  
8 receive the benefits under the contract.

9 127. Defendants breached the implied covenant of good faith and fair dealing by:

- 10 a. By unreasonably failing and refusing to conduct a fair and thorough  
11 investigation into the facts which gave rise to Plaintiffs' insurance  
12 claims;
- 13 b. By unreasonably and narrowly interpreting the insurance policy in a  
14 manner calculated to deny benefits due to Plaintiffs;
- 15 c. By unreasonably failing to acknowledge that Plaintiffs' business income  
16 and extra expense losses were caused by direct physical loss of their  
17 insured property due to the pandemic;
- 18 d. By unreasonably denying Plaintiffs' claims for loss of property, loss of  
19 business income, and extra expense;
- 20 e. By misrepresenting the scope of coverage available under the insurance  
21 policies;
- 22 f. By misrepresenting the scope and applicability of the exclusions  
23 contained in the insurance policies, including the mold exclusion, acts or  
24 decisions exclusion, and ordinance or law exclusion;
- 25 g. By compelling Plaintiffs to commence litigation to recover benefits due  
26 under the policy.

27 128. Defendants acted with fraud, malice, oppression and with reckless disregard  
28 for Plaintiffs' rights by

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- a. By misrepresenting the scope of the business income, extra expense, and civil authority coverage under the insurance policy;
- b. By misrepresenting the scope and applicability of the exclusions contained in the insurance policy, including the including the mold exclusion, acts or decisions exclusion, and ordinance or law exclusion;
- c. By systematically denying claims for business income, extra expense, and civil authority coverage arising out of the COVID-19 pandemic, and the SIP Orders and other Governmental Orders issued in response to the COVID-19 pandemic.

129. As a result of Defendants’ breach of the covenant of good faith and fair dealing, Plaintiffs lost the contract benefits due under the insurance policy, sustained consequential damages, and incurred attorneys’ fees and costs in order to enforce their contractual rights.

130. As a result of Defendants’ breach of the covenant of good faith and fair dealing, and because Defendants acted with fraud, malice, oppression and with reckless disregard for Plaintiffs’ rights, Plaintiffs are entitled to punitive damages in an amount that is in accordance with the evidence to be introduced at trial.

**PRAYER**

Plaintiffs pray for the following relief:

- a. A declaration that Plaintiffs’ losses are covered under the comprehensive business insurance policies issued by Crusader;
- b. Damages, attorneys’ fees and costs, and any other further relief as is just and proper as compensation for Defendants’ breach of contract and breach of the implied covenant of good faith and fair dealing;
- c. Punitive damages;
- d. Any other relief that this Court finds just and proper.

1 Dated: March 23, 2021

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By:   
\_\_\_\_\_ **Peter Roldan**

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**LOUIE'S; LITTLE'S LLC d/b/a CONNECTICUT**  
**YANKEE; LO POC GROUP LLC d/b/a FLY BAR**  
**DIVISADERO; MAGGIE MCGARRY'S, INC. d/b/a**  
**MAGGIE MCGARRY'S BAR; NAMU STONEPOT**  
**LLC d/b/a STONEPOT DIVISADERO AND**  
**STONEPOT DOLORES PARK; R BAR, INC. d/b/a**  
**R BAR; TOE DIPPING LLC d/b/a**  
**PEACEKEEPER; UPDOG LLC d/b/a MAKE**  
**WESTING; THE WELSHMAN GROUP LLC d/b/a**  
**FISHBOWL**

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**JURY DEMAND**

Plaintiffs demand a jury trial for all issues so triable under the law.

Dated: March 23, 2021

By:   
Peter Roldan

EMERGENT LLP  
Attorneys for Plaintiffs  
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