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10 and the putative class

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 PHILIP JOHNSON, individually and
14 on behalf of all others similarly
15 situated,

16 Plaintiff,

17 v.

18 UNITED SERVICES
19 AUTOMOBILE ASSOCIATION,
20 USAA CASUALTY INSURANCE
21 GROUP, USAA GENERAL
22 INDEMNITY COMPANY, and
23 GARRISON PROPERTY AND
24 CASUALTY INSURANCE
25 COMPANY, and DOES 1 through
26 20, inclusive,

27 Defendants.

Case No.: '22CV518 TWRJLB

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

(1) Breach of Contract

(2) Unjust Enrichment

**(3) Violation of California Business
and Professions Code § 17200 et seq.**

1 **CLASS ACTION COMPLAINT**

2 Plaintiff Philip Johnson (“Plaintiff Johnson” or “Plaintiff”), by and through
3 his attorneys and on behalf of himself and all others similarly situated, hereby
4 submit this Class Action Complaint against Defendants United Services Auto
5 Association, USAA Casualty Insurance Group, USAA General Indemnity
6 Company, and Garrison Property and Casualty Insurance Company Group
7 (collectively, “USAA” or “Defendants”), and allege as follows:

8 **PRELIMINARY STATEMENT**

9 1. This case is filed to end USAA’s practice of unfairly profiting from
10 the global COVID-19 pandemic.

11 2. Beginning in March 2020, states across the country, including
12 California, began to enforce strict social distancing measures to slow the spread
13 of COVID-19. This included closing schools and businesses and instituting strict
14 “stay-at-home” orders that prevented most individuals from leaving their homes
15 for extended periods of time.

16 3. While many companies, industries, and individuals have suffered
17 financially as a result of the COVID-19 pandemic, auto insurers like USAA have
18 scored a windfall. Not surprisingly, as a result of state-wide social distancing and
19 stay-at-home measures, there has been a dramatic reduction in driving, and an
20 attendant reduction in driving-related accidents. This decrease in driving and
21 accidents has significantly reduced the number of claims that auto insurers like
22 USAA have paid, resulting in a drastic and unfair increase in USAA’s profits at
23 the expense of its customers.

24 4. One published report calculates, very conservatively, that at least a
25 30% average refund of paid premiums would be required to make up for the
26 excess amounts paid by consumers for just the period between mid-March and the
27 end of April of 2020.

1 corporation with a principal place of business in San Antonio, Texas. Defendant
2 sells personal automobile insurance in states around the country, including
3 California. Defendant issued auto insurance policies during the relevant time
4 period at issue.

5 11. Defendant USAA General Indemnity Company is a Texas
6 corporation with a principal place of business in San Antonio, Texas. Defendant
7 sells personal automobile insurance in states around the country, including
8 California. Defendant issued auto insurance policies during the relevant time
9 period at issue.

10 12. Defendant Garrison Property and Casualty Company is a Texas
11 corporation with a principal place of business in San Antonio, Texas. Defendant
12 sells personal automobile insurance in states around the country, including
13 California. Defendant issued auto insurance policies during the relevant time
14 period at issue. Defendant Garrison Property and Casualty Company is a
15 subsidiary of United States Automobile Association.

16 13. Defendants collectively market insurance and present themselves as
17 USAA and virtually all of the insurance operations of these companies are
18 performed by the same USAA entity, named United Services Automobile
19 Association or “USAA” as abbreviated.¹

20 14. Defendants issued personal auto, motorcycle, and/or RV insurance
21 policies to Plaintiff and the members of the putative class during the relevant time
22 period. Defendants are affiliated companies, jointly participated in, and are jointly
23 responsible for the unlawful conduct described herein.

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26 ¹ See *Management Discussion and Analysis* in 2020 Annual Financial Statements
27 at
<https://interactive.web.insurance.ca.gov/companyprofile/companyprofile?event=companyProfile&doFunction=getCompanyProfile&eid=3288> (last accessed April
28 11, 2022)

1 15. In April 2020, USAA announced it would be returning a portion of
2 premiums in the form of statement credits.² These statement credits and return of
3 a portion of premiums in the form of dividends were uniformly developed by
4 USAA and was applied in identical fashion by each of the Defendants. Indeed,
5 Defendants submitted a joint memorandum to the California Department of
6 Insurance explaining the uniform terms and application of the USAA premium
7 credits and dividends.³ Defendants have each applied the USAA policy premium
8 credit and dividend program and the unfair practices at issue to California
9 policyholders during the relevant time period.⁴

10 16. Plaintiff Johnson is an adult resident of Bonita, California. Plaintiff
11 has held personal auto insurance policies purchased from United Services Auto
12 Association during the time period relevant to this lawsuit. As described in more
13 detail herein, as a result of the global COVID-19 pandemic and corresponding
14 drop in automobile use and traffic, the credit given by United Services Auto
15 Association is wholly inadequate to compensate Plaintiff for his overpayments on
16 these policies.

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21 ² <https://communities.usaa.com/t5/Press-Releases/USAA-to-Return-520-Million-to-Members/ba-p/228150> (last accessed April 11, 2022)

22 ³ See “CA COVID-19 Premium Refund Report Submissions - Company U to Z,”
23 California Department of Insurance, at “USAA - Group# 200 - Bulletin 2020-3
24 Resubmission,” [www.insurance.ca.gov/0250-insurers/0300-insurers/0100-
25 applications/rsb-forms/2020/2020-3-
26 submissions/loader.cfm?csModule=security/getfile&pageid=315821](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2020-3-submissions/loader.cfm?csModule=security/getfile&pageid=315821) (last
27 accessed April 11, 2022).

28 ⁴ See *id.* at worksheet for United States Automobile Association – NAIC #25941,
USAA Casualty Insurance Company – NAIC #25968, USAA General Indemnity
Company – NAIC #18600, and Garrison Property and Casualty Insurance –
NAIC #21253

1 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

2 **A. The Global COVID-19 Pandemic and State-Mandated Social**
3 **Distancing Measures**

4 17. In late December 2019, a novel coronavirus known as SARS-CoV-2
5 began to spread around the globe. The virus causes a disease called COVID-19.
6 By mid-January, cases of COVID-19 were confirmed in the United States.

7 18. By mid-March, there were thousands of confirmed cases of COVID-
8 19 across the United States and hundreds in the State of California alone.

9 19. Like many states around the country, California responded to the
10 worsening COVID-19 crisis with measures designed to increase, and often
11 mandate, social distancing in order to slow the spread of the virus.

12 20. On March 4, 2020, Governor Gavin Newsom proclaimed a State of
13 Emergency in California as a result of COVID-19. In the following weeks, the
14 state rolled out a series of social distancing measures, including, for example,
15 recommendations that older adults and those with elevated risk should self-
16 isolate.

17 21. On March 19, 2020, Governor Newsom instituted a statewide stay-
18 at-home order,⁵ making California among the first states to establish such an
19 order. With some exceptions, the order mandated “all individuals living in the
20 State of California to stay home.”⁶

21 22. In the time since Governor Newsom first instituted the stay-at-home
22 order, California’s progress toward reopening has been halting, and additional
23 stay-at-home orders were imposed in response to the spread of COVID cases.
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26 ⁵ Executive Order N-33-20 (Mar. 19, 2020), [https://www.gov.ca.gov/wp-](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf)
27 [content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf)
28 [ORDER.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf) (last accessed April 11, 2022)

⁶ *Id.* ¶ 1.

1 **B. USAA Has Obtained a Windfall Due to the Dramatic Decrease in**
 2 **Automobile Use and Traffic Caused by COVID-19**

3 23. Although businesses across the United States have almost uniformly
 4 suffered as a result of COVID-19, state-wide stay-at-home orders, and other
 5 social distancing measures, the auto insurance industry has benefited. In fact, auto
 6 insurance—a \$250 billion industry—has secured a windfall from COVID-19-
 7 related restrictions. The reason is simple. As one report put it: “With shelter-in-
 8 place restrictions and business closings, most people stopped driving or reduced
 9 their driving dramatically. With fewer cars on the road, there were dramatically
 10 fewer accidents. Fewer motor vehicle accidents mean fewer auto insurance
 11 claims.”⁷

12 24. Beginning in mid-March of 2020, the number of miles driven by
 13 individuals dropped dramatically because of COVID-19. This includes the State
 14 of California. Through the use of cell phone location data, it has been reported
 15 that vehicle miles traveled in California dropped significantly from their January
 16 2020 average in March and April of 2020:⁸

Date Range	Decrease in Miles Traveled
March 15 - March 21	-53%
March 22 - March 28	-72%
March 29 - April 4	-74%
April 5 - April 11	-77%
April 12 - April 18	-74%
April 19 - April 25	-71%

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⁷ See Center for Economic Justice & Consumer Federation of America, Personal Auto Insurance Premium Relief in the COVID-19 Era at 5 (May 7, 2020) (“CEJ/CFA Report”), <https://consumerfed.org/wp-content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-Update-Report-5-7-20.pdf> (last accessed April 11, 2022)

⁸ See *id.* at 6-8.

1 Upon information and belief, decreases in pre-COVID miles traveled continued
2 through the end of 2020 and well into 2021.⁹

3 25. Automobile accidents have also decreased. According to the Road
4 Ecology Center at the University of California, Davis, traffic collisions, including
5 those involving injuries or fatalities, dropped by roughly half after California
6 instituted its stay-at-home order.¹⁰

7 26. This dramatic decrease in driving and auto accidents allowed auto
8 insurance companies, including USAA, to unfairly profit at the expense of their
9 customers during the COVID-19 pandemic. Auto insurance rates, including those
10 set by USAA, are intended to cover the claims and expenses that they expect to
11 occur in the future, extrapolated from historical data. Thus, as explained in the
12 joint report by the Center for Economic Justice and the Consumer Federation of
13 America:

14 Because of COVID-19 restrictions, the assumptions about future
15 claims underlying insurers' rates in effect on March 1 became
16 radically incorrect overnight. When roads emptied, the frequency of
17 motor vehicle accidents and insurance claims dropped dramatically
18 and immediately. The assumptions in insurers' rates covering time-
19 frames from mid-March forward about future frequency of claims
20 became significantly wrong when the roads emptied because of Stay-
21 At-Home orders and business closures starting in mid-March. The
then-current rates became excessive not just for new policyholders
going forward, but also for existing policyholders whose premium
was based on now-overstated expectation about insurance claims.¹¹

22 ⁹ See *id.* at 2; see also Center for Economic Justice & Consumer Federation of
23 America, Auto Insurance Refunds Needed as New Data Show Crashes Remain
24 Well Below Normal Due to Pandemic (Dec. 22, 2020),

25 [https://consumerfed.org/press_release/auto-insurance-refunds-needed-as-new-
26 data-show-crashes-remain-well-below-normal-due-to-pandemic-23-fewer-
27 accidents-in-september-and-october/](https://consumerfed.org/press_release/auto-insurance-refunds-needed-as-new-data-show-crashes-remain-well-below-normal-due-to-pandemic-23-fewer-accidents-in-september-and-october/) (last accessed April 11, 2022)

28 ¹⁰ Fraser Shilling and David Waetjen, *Special Report: Impact of COVID19
Mitigation on Numbers and Costs of California Traffic Crashes*, Road Ecology
Center, UC Davis, Apr. 1, 2020 (updated Apr. 15, 2020),

[https://roadecology.ucdavis.edu/sites/g/files/dgvnsk8611/files/files/COVID_CHI
Ps_Impacts_report2.pdf](https://roadecology.ucdavis.edu/sites/g/files/dgvnsk8611/files/files/COVID_CHI_Ps_Impacts_report2.pdf) (last accessed April 11, 2020)

¹¹ CEJ/CFA Report, *supra*, at 4.

1 27. The excessive premiums collected and not refunded by USAA
2 during the COVID-19 pandemic have led to a substantial windfall.

3 **C. USAA Has Failed to Give Adequate Refunds to Plaintiff and Other**
4 **Policyholders in California**

5 28. According to conservative calculations by the Center for Economic
6 Justice and the Consumer Federation of America based on motor vehicle accident
7 data, at least a 30% minimum average premium refund to consumers would be
8 required to correct the unfair windfall to auto insurance companies, including
9 USAA, just for the time period from mid-March through the end of April 2020.¹²

10 29. At all relevant times, USAA has been aware of the need to refund
11 premiums in order to correct the unfair windfall it gained from policyholders in
12 California as a result of the COVID-19 crisis. USAA has likewise been aware of
13 its excessive profits. Despite this, USAA has failed to adequately return these
14 profits to its customers.

15 30. In spring 2020, USAA announced its plans to issue dividends to its
16 auto insurance policyholders. Under the program, USAA provided a dividend
17 representing approximately a 20% premium credit to personal auto insurance
18 customers for three months' worth of premiums.¹³

19 31. Following the issuance of its dividends, USAA subsequently issued
20 premium credits in the amount of 20% of one month's premium for policyholders
21 who were issued a policy in April or May 2020. USAA also issued a second
22 premium credit amounting to 10% of one month's premium for policyholders

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24 ¹² CEJ/CFA Report, *supra*, at 12-13.

25 ¹³ USAA's pandemic-related dividend was extended because, per an August
26 2020, statement attributed to USAA President and CEO Wayne Peacock on
27 USAA's website, "We see that members are driving less than when the pandemic
28 hit. As these patterns unfold, we are adjusting our auto insurance rates." *See*
"USAA to Return an Additional \$270 Million to Members, Totaling Over \$1
Billion in Dividends," (August 2020), [https://communities.usaa.com/t5/Press-
Releases/USAA-to-Return-an-Additional-270-Million-to-Members-Totaling/ba-
p/235292](https://communities.usaa.com/t5/Press-Releases/USAA-to-Return-an-Additional-270-Million-to-Members-Totaling/ba-p/235292) (last accessed April 11, 2022).

1 who had a policy in effect in August of 2020. The company reports that it
2 subsequently provided additional, but even smaller refunds to California
3 customers in 2020 and 2021 ranging between 5% and 3% of monthly premiums.

4 32. But USAA's dividend and premium credit program has been
5 inadequate to compensate its customers for the unfair windfall that the company
6 has obtained as a result of COVID-19. The credits were nowhere near the
7 minimum 30% average refund benchmark that has been conservatively
8 estimated as an adequate refund for just the first the first two months of the
9 pandemic alone.

10 33. Plaintiff Johnson has been a customer of USAA at all relevant
11 times. Plaintiff is a current United Services Auto Association policyholder.

12 34. Under USAA's publicly announced dividends and premium credits
13 issued, Plaintiff received dividends and/or premium credits in 2020 and 2021.
14 These dividends and premium credits were inadequate to compensate Plaintiff
15 for the unfair windfall that the company has obtained as a result of COVID-19.

16 35. Under its insurance policies, including the policies of Plaintiff and
17 the members of the putative class, USAA has the discretion to make voluntary
18 downward premium adjustments based on an insured's changed circumstances.

19 36. USAA improperly exercised that discretion by failing to issue
20 refunds of the now-excessive premiums during changed circumstances, when it
21 should have instead used its discretion, in good faith, to make appropriate
22 adjustments.

23 37. Plaintiff's policies described above were in effect during the time
24 period in which most of the United States, including California, was significantly
25 impacted by the global COVID-19 pandemic and stay-at-home orders (along with
26 other measures and conditions) caused a widespread and dramatic decrease in
27 automobile use and traffic. Despite this, USAA gave Plaintiff inadequate
28 dividends and premium credits on their 2020 and 2021 premiums.

1 38. USAA was aware that the shelter-in-place orders, social distancing
2 guidelines, and resulting reduction in driving resulted in premiums that were not
3 based on an accurate assessment of risk. Yet USAA continued to collect and
4 retain excessive, unfair premiums from Plaintiff and others.

5 39. In 1988, California voters approved Proposition 103 to further
6 establish the public policy of the state and to “protect consumers from arbitrary
7 insurance . . . practices, to encourage a competitive insurance marketplace . . . and
8 to ensure that insurance is fair, available, and affordable to all Californians.” The
9 people of the state declared with Proposition 103 that “[t]his law shall be liberally
10 construed and applied in order to fully promote its underlying purposes”

11 40. USAA’s collection and/or retention of such excessive premiums
12 violates California public policy and contravenes Proposition 103’s mandate to
13 protect consumers from arbitrary insurance practices, to encourage a competitive
14 insurance marketplace, and to ensure that insurance is fair, available, and
15 affordable for all Californians.

16 41. Upon information and belief, thousands of other policyholders in
17 California have been injured by USAA’s policy and practice of failing to provide
18 adequate refunds to policyholders due to the COVID-19 pandemic.

19 42. Plaintiff and the members of the putative class were unable to
20 reasonably avoid these harms because the analysis required to determine premium
21 refunds was within the exclusive knowledge of USAA.

22 **CLASS ACTION ALLEGATIONS**

23 43. Pursuant to Fed. R. Civ. P. 23(a) and 23(b), Plaintiff brings this
24 action individually and on behalf of all similarly situated individuals.

25 44. The proposed class is defined as follows:

26 All California residents who purchased personal automobile insurance from
27 USAA covering any portion of the time period from March 1, 2020 to the
28 present.

1 45. The members of the class are so numerous that joinder of all
2 members is impracticable. While the precise number of class members has not
3 been determined at this time, upon information and belief, there are thousands of
4 individuals in the class. The identities of the class members can be determined
5 from USAA's records.

6 46. There are questions of law and fact common to the class that
7 predominate over questions solely affecting individual members.

8 47. The common questions of law and fact include, but are not limited
9 to:

- 10 a. Whether USAA has a common policy or practice of failing to
11 provide adequate refunds to policyholders due to the COVID-19
12 pandemic;
- 13 b. Whether USAA's refund program is inadequate;
- 14 c. Whether USAA violated the covenant of good faith and fair
15 dealing;
- 16 d. Whether USAA was unjustly enriched as a result of its failure to
17 provide adequate refunds to its customers;
- 18 e. Whether USAA's failure to provide adequate refunds to its
19 customers is unfair;
- 20 f. Whether USAA has violated California consumer protection laws
21 through its failure to provide adequate refunds to its customers
22 and its failure to disclose the inadequacy of its refunds; and
23 g. the proper measure and calculation of damages.

24 48. The questions of law and fact listed above will yield common
25 answers for Plaintiff and the class as to whether USAA is liable for the alleged
26 legal violations.

1 49. Plaintiff's claims are typical of those of the members of the class.
2 Plaintiff, like other class members, was subject to the unlawful practices
3 described herein.

4 50. Plaintiff will fairly and adequately protect the interests of the class
5 and has retained counsel experienced in complex class action litigation.

6 51. Class treatment is appropriate under Fed. R. Civ. P. 23(b)(2) because
7 USAA has acted on grounds that apply generally to the class, so that final
8 injunctive relief or corresponding declaratory relief is appropriate with respect to
9 the class.

10 52. This action is properly maintainable as a class action under Fed. R.
11 Civ. P. 23(b)(3) because questions of law or fact predominate over any questions
12 affecting individual class members. A class action is superior to other methods in
13 order to ensure a fair and efficient adjudication of this controversy because, in the
14 context of similar litigation, individual Plaintiff often lack the financial resources
15 to vigorously prosecute separate lawsuits in federal court against large corporate
16 defendants. Class litigation is also superior because it will preclude the need for
17 unduly duplicative litigation resulting in inconsistent judgments pertaining to
18 USAA's policies and practices. There will be no difficulties in managing this
19 action.

20 53. In the alternative, class treatment is appropriate under Fed. R. Civ. P.
21 23(c)(4) because this is a case in which class adjudication of particular issues
22 would serve the interests of judicial economy.

23 **CAUSES OF ACTION**

24 **COUNT I**

25 **Breach of Contract –**

26 **Violation of the Covenant of Good Faith and Fair Dealing**

27 **(On Behalf of Plaintiff and the Putative Class)**

1 54. Plaintiff restates and incorporates by reference the above paragraphs
2 as if fully set forth herein.

3 55. Plaintiff and the members of the putative class purchased insurance
4 contracts from USAA and performed their contractual obligations thereunder.

5 56. USAA owed Plaintiff and the members of the putative class a duty
6 of good faith and fair dealing by virtue of their contractual relationship.

7 57. Under the insurance contracts, USAA had the discretion to make
8 voluntary downward premium adjustments based on an insured's changed
9 circumstances

10 58. Plaintiff and the members of the putative class had a reasonable
11 expectation that USAA would exercise this discretion fairly and in good faith,
12 without depriving Plaintiff and the members of the putative class of their right to
13 have the premiums collected for their insurance coverage limited to no more than
14 a fair rate of return, and to have that rate adjusted if it became excessive.

15 59. USAA's failure to return sufficient premiums has disappointed the
16 legitimate expectations of Plaintiff and the members of the putative class of
17 having premiums collected for their insurance coverage that are limited to no
18 more than a fair rate of return, and to have that rate adjusted if it became
19 excessive.

20 60. USAA's conduct has thereby deprived Plaintiff and the members of
21 the putative class of one of the key benefits of their contracts, and constitutes a
22 willful violation of the obligation of good faith and fair dealing owed for the
23 purpose of unfairly maximizing revenue from premiums paid by Plaintiff and
24 members of the putative class.

25 61. In addition, USAA gave more weight to its own interests than to the
26 interests of its policyholders. This conduct violated the higher standard of good
27 faith and fair dealing to which insurers are held due to the special relationship
28 existing between insurer and insured, which is characterized by elements of

1 public interest, adhesion, and fiduciary responsibility.

2 62. USAA consciously and deliberately acted with a lack of good faith,
3 despite knowing that its conduct violated the orders of the Department of
4 Insurance, thereby disappointing the reasonable expectations of Plaintiff and the
5 members of the putative class that premiums collected for their insurance
6 coverage would be limited to no more than a fair rate of return, and would be
7 adjusted if they became excessive.

8 63. Plaintiff and the members of the putative class have been injured as a
9 direct and proximate result of USAA’s unlawful conduct.

10 **COUNT II**

11 **Unjust Enrichment/Quasi-Contract**

12 **(On Behalf of Plaintiff and the Putative Class)**

13 64. Plaintiff pleads this Count in the alternative to her other Counts
14 herein.

15 65. As a result of USAA’s failure to provide adequate refunds to its
16 customers as described herein, USAA has been unjustly enriched.

17 66. USAA was enriched under such circumstances that it cannot
18 conscientiously retain its gain at Plaintiff’s and the putative class’s expense.

19 67. Plaintiff and the members of the putative class have been injured as a
20 direct and proximate result of USAA’s unlawful conduct.

21 **COUNT III**

22 **Violation the California Unfair Competition Law (“UCL”)**

23 **Cal. Bus. & Prof. Code § 17200 *et seq.***

24 **(On Behalf of Plaintiff and the Putative Class)**

25 68. Plaintiff restates and incorporates by reference the above paragraphs
26 as if fully set forth herein.

27 69. Plaintiff and USAA are “persons” within the meaning of the UCL.
28 Cal. Bus. & Prof. Code § 17201.

1 70. The UCL defines unfair competition to include any “unlawful,
2 unfair, or fraudulent business act or practice.” Cal. Bus. & Prof. Code § 17200.

3 71. By committing the acts and practices alleged herein, USAA has
4 engaged in unfair business acts and practices in violation of the UCL.

5 72. A business act or practice is “unfair” under the UCL if it offends an
6 established public policy or is immoral, unethical, oppressive, unscrupulous, or
7 substantially injurious to consumers, and that unfairness is determined by
8 weighing the reasons, justifications, and motives of the practice against the
9 gravity of the harm to the alleged victims. USAA has violated the UCL’s
10 proscription against unfair business practices by, among other things: failing to
11 fully refund premiums with full knowledge of the amount and extent of their
12 excess and the fact that they are not based on an accurate assessment of risk, and
13 failing to disclose the fact that it is earning excessive profits, or the amount of
14 those profits.

15 73. There is no societal benefit from USAA’s conduct—only harm to
16 consumers. USAA has engaged in immoral, unethical, oppressive, and
17 unscrupulous activities that are substantially injurious to consumers, and the
18 gravity of its conduct outweighs any alleged benefits attributable to such conduct.

19 74. California has a longstanding public policy limiting an insurer’s
20 ability to impose rates in excess of a fair rate of return on the insured risk that is
21 reflected in various statutes and regulations.

22 75. USAA’s conduct in collecting and retaining premiums that have
23 become excessive in light of the unforeseen pandemic-related reduction in driving
24 violates this vital public policy and the intent of the statutes and regulations
25 designed to ensure that the rates collected by insurers relate to the risk insured
26 and are limited to a fair rate of return.

27 76. There were reasonably available alternatives to further USAA’s
28 legitimate business interests, other than the conduct described herein.

- 1 E. Awarding Plaintiff and the members of the putative class their
2 damages in an amount to be determined at trial, including
3 compensatory damages, consequential damages, punitive damages,
4 and any other damages provided under relevant laws;
- 5 F. Disgorgement of, restitution of, and/or imposing a constructive trust
6 upon, the ill-gotten gains derived by Defendants from its unjust
7 enrichment;
- 8 G. An order awarding Plaintiff and the class attorneys' fees, costs, and
9 expert costs;
- 10 H. An order awarding Plaintiff and the members of the putative class
11 pre-judgment and post-judgment interest, as allowed by law; and
- 12 I. Such further relief as may be appropriate.

13
14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a trial by jury on all issues so triable.

16
17 Dated: April 14, 2022

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**Pro hac vice application forthcoming*

Attorneys for Plaintiff Philip Johnson, and the putative class.

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