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9 Attorneys for Plaintiff Sarah Blain

10 and the putative class

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

13 SARAH BLAIN, individually and on  
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 LIBERTY MUTUAL FIRE  
18 INSURANCE COMPANY,

19 Defendant.

20 **Case No.:** '22CV0970 BEN RBB

21 **CLASS ACTION COMPLAINT**

22 **DEMAND FOR JURY TRIAL**

23 **(1) Breach of Contract**

24 **(2) Unjust Enrichment**

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

1 **CLASS ACTION COMPLAINT**

2 Plaintiff Sarah Blain (“Plaintiff Blain” or “Plaintiff”), by and through her  
3 attorneys and on behalf of herself and all others similarly situated, hereby submits  
4 this Class Action Complaint against Defendant Liberty Mutual Fire Insurance  
5 Company (“Liberty Mutual”), and alleges as follows:

6 **PRELIMINARY STATEMENT**

7 1. This case is filed to end Liberty Mutual’s practice of unfairly  
8 profiting from the global COVID-19 pandemic.

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

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

22 4. One published report calculates, very conservatively, that at least a  
23 30% average refund of paid premiums would be required to make up for the  
24 excess amounts paid by consumers for just the period between mid-March and the  
25 end of April of 2020.

26 5. Despite full knowledge of these facts, Liberty Mutual continued to  
27 charge and collect excessive premiums throughout 2020 and 2021 and has failed  
28 to issue adequate refunds. Liberty Mutual’s refund program was inadequate to

1 compensate its customers for overpayments resulting from COVID-19. Despite  
2 having contractual discretion to adjust the policy premium, Liberty Mutual’s  
3 refund program applied only a 15% refund to policyholders in April and May  
4 2020, followed by a paltry 5% refund covering twelve months spanning from  
5 June 2020 through May 2021.

6 6. To remedy Defendants’ unlawful conduct, Plaintiff bring this class  
7 action alleging violations of California state law. Plaintiff seeks disgorgement of  
8 the ill-gotten gains obtained by Liberty Mutual to the detriment of its customers,  
9 all available damages, punitive damages, declaratory and injunctive relief, and all  
10 other available relief.

11 **JURISDICTION**

12 7. This Court has jurisdiction under 28 U.S.C. § 1332(d) because this is  
13 a class action in which the amount in controversy is over \$5,000,000 exclusive of  
14 interest and costs, and at least one member of the class is a citizen of a State  
15 different from Defendants.

16 **VENUE**

17 8. Venue is proper in the Southern District of California under 28  
18 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to  
19 the claims occurred in this district.

20 **PARTIES**

21 9. Defendant Liberty Mutual Fire Insurance Company is a  
22 Massachusetts corporation with a principal place of business in Boston,  
23 Massachusetts. Defendant sells personal automobile insurance in states around  
24 the country, including California. Defendant issued auto insurance policies during  
25 the relevant time period at issue.

26 10. Defendant issued personal auto, motorcycle, and/or RV insurance  
27 policies to Plaintiff and the members of the putative class during the relevant time  
28 period.

1 11. On April 7, 2020, Liberty Mutual announced it would be returning a  
2 portion of premiums in the form of refunds via check or to the method of payment  
3 utilized by the policyholder.<sup>1</sup> These refunds were uniformly developed by Liberty  
4 Mutual and were applied in identical fashion by Defendant to its policyholders.  
5 Defendant applied the Liberty Mutual refund program and the unfair practices at  
6 issue to California policyholders during the relevant time period.

7 12. Plaintiff Blain is an adult resident of San Diego, California. Plaintiff  
8 has held personal auto insurance policies purchased from Liberty Mutual during  
9 the time period relevant to this lawsuit. As described in more detail herein, as a  
10 result of the global COVID-19 pandemic and corresponding drop in automobile  
11 use and traffic, the credit given by Liberty Mutual is wholly inadequate to  
12 compensate Plaintiff for her overpayments on these policies.

13 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

14 **A. The Global COVID-19 Pandemic and State-Mandated Social**  
15 **Distancing Measures**

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

19 14. By mid-March, there were thousands of confirmed cases of COVID-  
20 19 across the United States and hundreds in the State of California alone.

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

24 16. On March 4, 2020, Governor Gavin Newsom proclaimed a State of  
25 Emergency in California as a result of COVID-19. In the following weeks, the

26 \_\_\_\_\_  
27 <sup>1</sup> [https://www.libertymutualgroup.com/about-lm/news/articles/liberty-mutual-  
28 insurance-announces-personal-auto-customer-relief-refund-help-customers-  
during-pandemic](https://www.libertymutualgroup.com/about-lm/news/articles/liberty-mutual-insurance-announces-personal-auto-customer-relief-refund-help-customers-during-pandemic) (last accessed July 1, 2022)

1 state rolled out a series of social distancing measures, including, for example,  
 2 recommendations that older adults and those with elevated risk should self-  
 3 isolate.

4 17. On March 19, 2020, Governor Newsom instituted a statewide stay-  
 5 at-home order,<sup>2</sup> making California among the first states to establish such an  
 6 order. With some exceptions, the order mandated “all individuals living in the  
 7 State of California to stay home.”<sup>3</sup>

8 18. In the time since Governor Newsom first instituted the stay-at-home  
 9 order, California’s progress toward reopening has been halting, and additional  
 10 stay-at-home orders were imposed in response to the spread of COVID cases.

11 **B. Liberty Mutual Has Obtained a Windfall Due to the Dramatic**  
 12 **Decrease in Automobile Use and Traffic Caused by COVID-19**

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

22  
 23 <sup>2</sup> 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)  
 24 [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)  
 25 [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 July 1, 2022)

26 <sup>3</sup> *Id.* ¶ 1.

27 <sup>4</sup> See Center for Economic Justice & Consumer Federation of America, Personal  
 28 Auto Insurance Premium Relief in the COVID-19 Era at 5 (May 7, 2020)  
 (“CEJ/CFA Report”), [https://consumerfed.org/wp-](https://consumerfed.org/wp-content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-Update-Report-5-7-20.pdf)  
[content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-Update-Report-5-](https://consumerfed.org/wp-content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-Update-Report-5-7-20.pdf)  
[7-20.pdf](https://consumerfed.org/wp-content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-Update-Report-5-7-20.pdf) (last accessed July 1, 2022)

1           20. Beginning in mid-March of 2020, the number of miles driven by  
 2 individuals dropped dramatically because of COVID-19. This includes the State  
 3 of California. Through the use of cell phone location data, it has been reported  
 4 that vehicle miles traveled in California dropped significantly from their January  
 5 2020 average in March and April of 2020:<sup>5</sup>

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%

14  
 15 Upon information and belief, decreases in pre-COVID miles traveled continued  
 16 through the end of 2020 and well into 2021.<sup>6</sup>

17           21. Automobile accidents have also decreased. According to the Road  
 18 Ecology Center at the University of California, Davis, traffic collisions, including  
 19 those involving injuries or fatalities, dropped by roughly half after California  
 20 instituted its stay-at-home order.<sup>7</sup>

21  
 22 <sup>5</sup> See *id.* at 6-8.

23 <sup>6</sup> See *id.* at 2; see also Center for Economic Justice & Consumer Federation of  
 24 America, Auto Insurance Refunds Needed as New Data Show Crashes Remain  
 25 Well Below Normal Due to Pandemic (Dec. 22, 2020),  
[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/](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 July 1, 2022)

26 <sup>7</sup> Fraser Shilling and David Waetjen, *Special Report: Impact of COVID19*  
 27 *Mitigation on Numbers and Costs of California Traffic Crashes*, Road Ecology  
 28 Center, UC Davis, Apr. 1, 2020 (updated Apr. 15, 2020),  
[https://roadeology.ucdavis.edu/sites/g/files/dgvnsk8611/files/files/COVID\\_CHI  
 Ps\\_Impacts\\_report2.pdf](https://roadeology.ucdavis.edu/sites/g/files/dgvnsk8611/files/files/COVID_CHI_Ps_Impacts_report2.pdf) (last accessed July 1, 2022)

1           22. This dramatic decrease in driving and auto accidents allowed auto  
2 insurance companies, including Liberty Mutual, to unfairly profit at the expense  
3 of their policyholders during the COVID-19 pandemic. Auto insurance rates,  
4 including those set by Liberty Mutual, are intended to cover the claims and  
5 expenses that they expect to occur in the future, extrapolated from historical data.  
6 Thus, as explained in the joint report by the Center for Economic Justice and the  
7 Consumer Federation of America:

8           Because of COVID-19 restrictions, the assumptions about future  
9 claims underlying insurers' rates in effect on March 1 became  
10 radically incorrect overnight. When roads emptied, the frequency of  
11 motor vehicle accidents and insurance claims dropped dramatically  
12 and immediately. The assumptions in insurers' rates covering time-  
13 frames from mid-March forward about future frequency of claims  
14 became significantly wrong when the roads emptied because of Stay-  
15 At-Home orders and business closures starting in mid-March. The  
16 then-current rates became excessive not just for new policyholders  
17 going forward, but also for existing policyholders whose premium  
18 was based on now-overstated expectation about insurance claims.<sup>8</sup>

19           23. The excessive premiums collected and not refunded by Liberty  
20 Mutual during the COVID-19 pandemic have led to a substantial windfall.

21 **C. Liberty Mutual Elected Not To Exercise Its Contractual Discretion To**  
22 **Adjust The Applicable Policy Premium**

23           24. Liberty Mutual is conferred ongoing explicit contractual discretion to  
24 adjust policy premiums as set forth in pertinent language in its standard auto  
25 insurance policies issued to Plaintiff and policyholders in California.

26           25. Indeed, the applicable clause under the "CHANGES" provision in  
27 Defendant's LibertyGuard Auto Policy attached herein as Exhibit A clearly and  
28 unmistakably grants Liberty Mutual discretion to change the policy premium.

<sup>8</sup> CEJ/CFA Report, *supra*, at 4.

1           ***If there is a change to the information used to develop the policy***  
2           ***premium, we may adjust your premium.***<sup>9</sup>

3           26. The scope of Liberty Mutual’s discretion to change the premium was  
4 crafted by Liberty Mutual to extend beyond circumstances specific to the  
5 policyholder. *Id.*

6           27. Despite being well aware of the drastic change in driver volume and  
7 traffic conditions that substantially altered the risk incurred by Liberty Mutual  
8 and related development of policy premiums charged to Plaintiff and other  
9 policyholders, Liberty Mutual elected to shortchange its policyholders in the  
10 amount of refunds that it issued to them.

11           **D. Liberty Mutual Has Failed to Give Adequate Refunds to Plaintiff and**  
12           **Other Policyholders in California**

13           28. According to conservative calculations by the Center for Economic  
14 Justice and the Consumer Federation of America based on motor vehicle accident  
15 data, at least a 30% minimum average premium refund to consumers would be  
16 required to correct the unfair windfall to auto insurance companies, including  
17 Liberty Mutual, just for the time period from mid-March through the end of April  
18 2020.<sup>10</sup>

19           29. At all relevant times, Liberty Mutual has been aware of the need to  
20 refund premiums in order to correct the unfair windfall it gained from  
21 policyholders in California as a result of the COVID-19 crisis. Liberty Mutual has  
22 likewise been aware of its excessive profits. Despite this, Liberty Mutual has  
23 failed to adequately return these profits to its customers.

24           30. In April 2020, Liberty Mutual announced its plans to issue a refund  
25 to its auto insurance policyholders. Under the program, Liberty Mutual provided a  
26 refund of approximately 15% to personal auto insurance customers for two

27 \_\_\_\_\_  
28 <sup>9</sup> See Exhibit A LibertyGuard Auto Policy, Part F, Subsection B at pg. 9

<sup>10</sup> CEJ/CFA Report, *supra*, at 12-13.



1 months' worth of premiums.<sup>11</sup>

2 31. Following the issuance of its initial 15% premium refund, Liberty  
3 Mutual subsequently issued premium refund in the amount of 5% of twelve  
4 month's premium for policyholders who held an active policy from June 2020  
5 through May 2021.<sup>12</sup>

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

12 33. Plaintiff Blain has been a customer of Liberty Mutual at all  
13 relevant times. Plaintiff is a current Liberty Mutual policyholder.

14 34. Under Liberty Mutual's publicly announced premium refund  
15 program, Plaintiff received a premium refund in 2020 and 2021. These premium  
16 refunds were inadequate to compensate Plaintiff for the unfair windfall that the  
17 company has obtained as a result of COVID-19.

18 35. Under its insurance policies, including the policies of Plaintiff and

19 \_\_\_\_\_  
20 <sup>11</sup> See "CA COVID-19 Premium Refund Report Submissions - Company I to N,"  
21 California Department of Insurance, at "Bulletin 2020-3 Explanatory  
22 Memorandum" for Liberty Mutual Fire Insurance Company – NAIC #23035;  
23 Available at: [www.insurance.ca.gov/0250-insurers/0300-insurers/0100-  
applications/rsb-forms/2020/2020-3-  
submissions/loader.cfm?csModule=security/getfile&pageid=316512](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2020-3-submissions/loader.cfm?csModule=security/getfile&pageid=316512) (last  
accessed July 1, 2022)

24 <sup>12</sup> See "CA COVID-19 Premium Refund Report Submissions - Company I to N,"  
25 California Department of Insurance, at "Bulletin 2021-3 Supp Memo" for Liberty  
26 Mutual Fire Insurance Company – NAIC #23035; Available at:  
27 [www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-  
forms/2020/2021-03-  
submissions/loader.cfm?csModule=security/getfile&pageid=325773](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2021-03-submissions/loader.cfm?csModule=security/getfile&pageid=325773) (last  
28 accessed July 1, 2022)

1 the members of the putative class, Liberty Mutual has the discretion to make  
2 voluntary downward premium adjustments based on an insured's changed  
3 circumstances.

4 36. Liberty Mutual improperly exercised that discretion by failing to  
5 issue refunds of the now-excessive premiums during changed circumstances,  
6 when it should have instead used its discretion, in good faith, to make appropriate  
7 adjustments.

8 37. Plaintiff's policies described above were in effect during the time  
9 period in which most of the United States, including California, was significantly  
10 impacted by the global COVID-19 pandemic and stay-at-home orders (along with  
11 other measures and conditions) caused a widespread and dramatic decrease in  
12 automobile use and traffic. Despite this, Liberty Mutual gave Plaintiff inadequate  
13 refunds on her 2020 and 2021 premiums.

14 38. Liberty Mutual was aware that the shelter-in-place orders, social  
15 distancing guidelines, and resulting reduction in driving resulted in premiums that  
16 were not based on an accurate assessment of risk. Yet Liberty Mutual continued  
17 to collect and retain excessive, unfair premiums from Plaintiff and others.

18 39. In 1988, California voters approved Proposition 103 to further  
19 establish the public policy of the state and to "protect consumers from arbitrary  
20 insurance . . . practices, to encourage a competitive insurance marketplace . . . and  
21 to ensure that insurance is fair, available, and affordable to all Californians." The  
22 people of the state declared with Proposition 103 that "[t]his law shall be liberally  
23 construed and applied in order to fully promote its underlying purposes . . ."

24 40. Liberty Mutual's collection and/or retention of such excessive  
25 premiums violates California public policy and contravenes Proposition 103's  
26 mandate to protect consumers from arbitrary insurance practices, to encourage a  
27 competitive insurance marketplace, and to ensure that insurance is fair, available,  
28 and affordable for all Californians.

1 41. Upon information and belief, thousands of other policyholders in  
2 California have been injured by Liberty Mutual's policy and practice of failing to  
3 provide adequate refunds to policyholders due to the COVID-19 pandemic.

4 42. Plaintiff and the members of the putative class were unable to  
5 reasonably avoid these harms because the analysis required to determine premium  
6 refunds was within the exclusive knowledge of Liberty Mutual.

7 **CLASS ACTION ALLEGATIONS**

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

10 44. The proposed class is defined as follows:

11 All California residents who purchased personal automobile insurance from  
12 Liberty Mutual covering any portion of the time period from March 1,  
13 2020 to the present.

14 45. The members of the class are so numerous that joinder of all  
15 members is impracticable. While the precise number of class members has not  
16 been determined at this time, upon information and belief, there are thousands of  
17 individuals in the class. The identities of the class members can be determined  
18 from Liberty Mutual's records.

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

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

- 23 a. Whether Liberty Mutual has a common policy or practice of  
24 failing to provide adequate refunds to policyholders due to the  
25 COVID-19 pandemic;
- 26 b. Whether Liberty Mutual's refund program is inadequate;
- 27 c. Whether Liberty Mutual violated the covenant of good faith and  
28 fair dealing;

- 1 d. Whether Liberty Mutual was unjustly enriched as a result of its
- 2 failure to provide adequate refunds to its customers;
- 3 e. Whether Liberty Mutual's failure to provide adequate refunds to
- 4 its customers is unfair;
- 5 f. Whether Liberty Mutual has violated California consumer
- 6 protection laws through its failure to provide adequate refunds to
- 7 its customers and its failure to disclose the inadequacy of its
- 8 refunds; and
- 9 g. the proper measure and calculation of damages.

10 48. The questions of law and fact listed above will yield common  
11 answers for Plaintiff and the class as to whether Liberty Mutual is liable for the  
12 alleged legal violations.

13 49. Plaintiff's claims are typical of those of the members of the class.  
14 Plaintiff, like other class members, was subject to the unlawful practices  
15 described herein.

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

18 51. Class treatment is appropriate under Fed. R. Civ. P. 23(b)(2) because  
19 Liberty Mutual has acted on grounds that apply generally to the class, so that final  
20 injunctive relief or corresponding declaratory relief is appropriate with respect to  
21 the class.

22 52. This action is properly maintainable as a class action under Fed. R.  
23 Civ. P. 23(b)(3) because questions of law or fact predominate over any questions  
24 affecting individual class members. A class action is superior to other methods in  
25 order to ensure a fair and efficient adjudication of this controversy because, in the  
26 context of similar litigation, individual Plaintiff often lack the financial resources  
27 to vigorously prosecute separate lawsuits in federal court against large corporate  
28 defendants. Class litigation is also superior because it will preclude the need for

1 unduly duplicative litigation resulting in inconsistent judgments pertaining to  
2 Liberty Mutual’s policies and practices. There will be no difficulties in managing  
3 this action.

4 53. In the alternative, class treatment is appropriate under Fed. R. Civ. P.  
5 23(c)(4) because this is a case in which class adjudication of particular issues  
6 would serve the interests of judicial economy.

7 **CAUSES OF ACTION**

8 **COUNT I**

9 **Breach of Contract –**

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

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

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

14 55. Plaintiff and the members of the putative class purchased insurance  
15 contracts from Liberty Mutual and performed their contractual obligations  
16 thereunder.

17 56. Liberty Mutual owed Plaintiff and the members of the putative class  
18 a duty of good faith and fair dealing by virtue of their contractual relationship.

19 57. Under the standard contractual language in its policies it issued,  
20 Liberty Mutual had the discretion to make voluntary downward premium  
21 adjustments based on changed circumstances used to calculate the premium.

22 58. Plaintiff and the members of the putative class had a reasonable  
23 expectation that Liberty Mutual would exercise this discretion fairly and in good  
24 faith, without depriving Plaintiff and the members of the putative class of their  
25 right to have the premiums collected for their insurance coverage limited to no  
26 more than a fair rate of return, and to have that rate adjusted if it became  
27 excessive.





1           73. There is no societal benefit from Liberty Mutual’s conduct—only  
2 harm to consumers. Liberty Mutual has engaged in immoral, unethical,  
3 oppressive, and unscrupulous activities that are substantially injurious to  
4 consumers, and the gravity of its conduct outweighs any alleged benefits  
5 attributable to such conduct.

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

9           75. Liberty Mutual’s conduct in collecting and retaining premiums that  
10 have become excessive in light of the unforeseen pandemic-related reduction in  
11 driving violates this vital public policy and the intent of the statutes and  
12 regulations designed to ensure that the rates collected by insurers relate to the risk  
13 insured and are limited to a fair rate of return.

14           76. There were reasonably available alternatives to further Liberty  
15 Mutual’s legitimate business interests, other than the conduct described herein.

16           77. The injury caused by Liberty Mutual’s failure to provide adequate  
17 refunds is substantial in light of very conservative calculations that a 30%  
18 minimum average premium refund would be required to correct its unfair  
19 windfall just for the time period from mid-March through the end of April 2020.

20           78. Plaintiff and the members of the putative class have been injured as a  
21 direct and proximate result of Liberty Mutual’s conduct in violation of the UCL.  
22 Plaintiff and the members of the putative class lost money or property and  
23 suffered injury in fact because Liberty Mutual collected and retained, and  
24 continues to collect and retain, premiums in excess of the limitations imposed by  
25 California public policy, which rightfully belong to Plaintiff and the putative  
26 class.



1 79. Plaintiff and the members of the putative class were unable to  
2 reasonably avoid these harms because the analysis required to determine premium  
3 refunds was within the exclusive knowledge of Liberty Mutual.

4 80. Plaintiff therefore request that this Court grant the relief enumerated  
5 below. Otherwise, Plaintiff and the members of the putative class may be  
6 irreparably harmed and/or denied an effective and complete remedy.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff, individually and on behalf of the members of  
9 the putative class, prays for relief as follows:

- 10 A. Certification of this action as a class action pursuant to Fed. R. Civ.  
11 P. 23;
- 12 B. The appointment of Plaintiff as class representative and his counsel  
13 as class counsel;
- 14 C. A declaration that the practices complained of herein are unlawful  
15 and violate the laws of California alleged herein;
- 16 D. An injunction against Defendant from engaging in the unlawful  
17 practices complained of herein;
- 18 E. Awarding Plaintiff and the members of the putative class their  
19 damages in an amount to be determined at trial, including  
20 compensatory damages, consequential damages, punitive damages,  
21 and any other damages provided under relevant laws;
- 22 F. Disgorgement of, restitution of, and/or imposing a constructive trust  
23 upon, the ill-gotten gains derived by Defendant from its unjust  
24 enrichment;
- 25 G. An order awarding Plaintiff and the class attorneys' fees, costs, and  
26 expert costs;
- 27 H. An order awarding Plaintiff and the members of the putative class  
28 pre-judgment and post-judgment interest, as allowed by law; and

I. Such further relief as may be appropriate.

**DEMAND FOR JURY TRIAL**

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

Dated: July 1, 2022 By: s/Manfred P. Muecke

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