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6

7 *Attorneys for Plaintiff PEZ SEAFOOD DTLA, LLC, dba PEZ CANTINA and PEZ  
POWDER, a Limited Liability Company*

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 PEZ SEAFOOD DTLA, LLC, dba PEZ  
CANTINA and PEZ POWDER, a  
11 Limited Liability Company,

12 Plaintiff,

13 vs.

14 THE TRAVELERS INDEMNITY  
COMPANY, a Corporation; MUNTU  
DAVIS, an individual; and DOES 1  
15 through 25;

16 Defendants.

CASE NO. 2:20-cv-04699-DMG-GJS

Hon. Dolly M. Gee

**PLAINTIFF'S REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT  
OF OPPOSITION TO DEFENDANT  
TRAVELERS PROPERTY  
CASUALTY COMPANY OF  
AMERICA'S MOTION TO  
DISMISS**

Hearing Date: August 14, 2020  
Time: 9:30 a.m.  
Dept.: Courtroom 8C

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to Rule 201 of the Federal Rules of  
 3 Evidence, Plaintiff PEZ SEAFOOD DTLA, LLC, dba PEZ CANTINA and PEZ  
 4 POWDER, a Limited Liability Company (“Pez Cantina”) hereby requests that the  
 5 Court take judicial notice of the following documents in support of Plaintiff’s  
 6 Opposition to Defendant Travelers’ Motion to Dismiss:

7 1) Correspondence between Travelers and the Department of Insurance  
 8 related to the March 8, 2007 Application for Approval of Insurance  
 9 Rates, attached hereto as **Exhibit 1**.

10 2) Travelers Casualty Insurance Company of America’s Answer to  
 11 Amended Complaint, *Natty Greene’s Brewing Co., LLC v. Traveler’s*  
 12 *Casualty Ins. Co.*, No. 1:20-cv-00437 (M.D.N.C. filed May 15, 2020),  
 13 ECF No. 40, attached hereto as **Exhibit 2**.

14 3) Resolution of the Los Angeles County Board of Supervisors adopted on  
 15 April 14, 2020, attached hereto as **Exhibit 3**.

16 Records and letters of the California Department of Insurance are judicially  
 17 noticeable. See *Louis v. McCormick & Schmick Restaurant Corp.*, 460 F.Supp.2d  
 18 1153(C.D. Cal. 2006) (a federal court can take judicial notice of opinion letters  
 19 issued by federal and state regulatory agencies); *Lundquist v. Continental Casualty*  
 20 *Co.*, 394 F.Supp.2d 1230 (C.D. Cal. 2005) ( taking judicial notice of the revocation  
 21 of approval of certain clauses in an insurance policy by the California Department  
 22 of Insurance); *Wible v. Aetna Life Ins. Co.*, 375 F.Supp.2d 956 (C.D. Cal. 2005)  
 23 (taking judicial notice of an opinion letter of the state insurance department).  
 24 Additionally, a court can take judicial notice of pleadings in another action. *In re*  
 25 *Qualcomm Antitrust Litigation*, 292 F.Supp.3d 948 (N.D. Cal. 2017) (taking  
 26 judicial notice of an amended complaint filed in a different action, but not of the  
 27 facts contained therein). A court can also take judicial notice of a resolution of the  
 28 county board of supervisors. *Retired Employees Ass’n of Orange County, Inc. v.*

1 *County of Orange*, 632 F.Supp.2d 983 (C.D. Cal. 2009) (taking judicial notice of  
2 documents submitted by county in support of its motion for summary judgment,  
3 including county board of supervisors' resolution and bankruptcy court order  
4 confirming county's second plan of adjustment). As stated herein, all of the above  
5 documents are judicially noticeable under Rule 201 of the Federal Rules of  
6 Evidence. Therefore, the Court should take judicial notice of Exhibits 1, 2, and 3.

7  
8  
9 DATED: July 24, 2020

**KABATECK LLP**

10  
11 By: /s/ Christopher B. Noyes  
12 Brian S. Kabateck  
13 Christopher B. Noyes  
14 Marina R. Pacheco  
15 *Attorneys for Plaintiff*  
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**DEPARTMENT OF INSURANCE**

RATE REGULATION BRANCH

45 FREMONT STREET

SAN FRANCISCO, CA 94105

www.insurance.ca.gov



May 17, 2007

St. Paul Travelers  
Attn.: Kathy Pohlman  
385 Washington Street  
St. Paul, Minnesota 55102

**RE: APPROVAL OF APPLICATION**

St. Paul Travelers, on behalf of its member companies named below, has submitted the following application for approval regarding the following line of business or program:

<b><u>CDI App. No(s):</u></b>	The Travelers Indemnity Company of Connecticut 07-1993 Travelers Property and Casualty Company of America 07-1994
<b><u>Insurer File No(s):</u></b>	2006-11-0043-CMP
<b><u>Line(s) of Insurance:</u></b>	Commercial Multi-Peril
<b><u>Program:</u></b>	None

Only the change(s) specifically indicated in the application set forth above, as it may have been amended, is (are) approved. Nothing in this letter shall constitute approval of any other application, whether incorporated by reference, or filed prior or subsequent to the application set forth above. The Company shall begin issuing policies pursuant to this approval within 90 days of the date of this approval, provided that the insurer is licensed in California to transact the line of insurance for which the approval is given. The Company may implement this approval earlier if it is able to do so. Regardless of the implementation date, the Company shall implement this approval with the same effective date for both new and renewal business and shall offer this product to all eligible applicants as of the implementation date. This approval shall continue to have full force and effect until such time as a subsequent change for the referenced lines or programs may be approved or ordered by the Insurance Commissioner.

If any portion of the application or related documentation conflicts with California law, that portion is specifically not approved. This approval does not constitute an approval of underwriting guidelines nor the specific language, coverages, terms, covenants and conditions contained in any forms, or of the forms themselves. Policy forms and underwriting guidelines included in this filing were reviewed only insofar as they relate to rates contained in this filing or currently on file with the California Department of Insurance. Any subsequent changes to underwriting guidelines or coverages, terms, covenants and conditions contained in any forms must be submitted with supporting documentation when those changes result in any rating impact. The Commissioner may at any time take any action allowed by law if he determines that any underwriting guidelines, forms or procedures for application of rates, or any other portions of the application conflict with any applicable laws or regulations.

Sincerely,

**Larry LaStofka**  
Bureau Chief  
Rate Regulation - SF-2  
45 Fremont Steet, 23rd Floor  
San Francisco, Ca. 94105



**Kathy Pohlman, CPCU, AIS**  
Sr. Regulatory Analyst  
Regulatory Affairs, Business Insu  
385 Washington Street, 9275-NB  
St. Paul, MN 55102  
Direct: (651) 310-5573; Fax: (65  
Toll Free: (800) 328-2189 Ext. 0  
Email: kpohlman@travelers.com

May 30, 2007

Jerry Cheung  
California Department of Insurance  
Rate Regulation Division  
Rate Filing Bureau  
45 Fremont Street, 23<sup>rd</sup> Floor  
San Francisco, CA 94105

SENT VIA E-Mail: [cheungj@insurance.ca.gov](mailto:cheungj@insurance.ca.gov)

**THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT**  
**TRAVELERS PROPERTY AND CASUALTY COMPANY OF AMERICA**  
Commercial Multi-Peril  
Form and Rule Submission  
**Filing Number: 2006-11-0043-CMP**  
**CDI Number: 07-1993, 07-1994**

SPV

Dear Mr. Cheung,

Thank you for your recent approval of the above referenced filing.

To allow sufficient time to coordinate these changes we wish to amend our proposed effective date to November 1, 2007.

Please make note of this change and feel free to contact me with any questions. Your acknowledgment of this request will be appreciated.

Sincerely,

Kathy Pohlman, CPCU, AIS  
Sr. Regulatory Analyst

APPLICATION FOR APPROVAL  
OF INSURANCE RATES

Your File #: 2006-11-0043-CMP

☒ Original ☐ Copy 1 ☐ Copy 2

Does this file contain group data? Yes ☐ No ☒

Is this a specialty filing? Yes ☐ No ☒

Note: A separate CA-RA1 page must be submitted  
for each company within a group filing.

Latest applicable CDI File No. in this Line,  
Subline, and/or Program:  
07-1272 & 1273 (Filing 2006-11-0043)

Department Use Only	
FILING NO.:	07-1993
DATE FILED:	MAR 09 2007
COMPLIANCE DATE:	MAR 16 2007
DATE PUBLIC NOTIFIED:	MAR 23 2007
DEEMER DATE:	MAY 22 2007
INTAKE ANALYST:	ZAMUDIOM
BUREAU CODE & SR.:	SF2-Salgado
For Group Filing :	<input checked="" type="radio"/> Yes <input type="radio"/> No
X-Reference #:	
Rate	New Program
	Both Rate & Form
	<input checked="" type="radio"/> Rule <input type="radio"/> Form
	Class Plan
PERCENT CHANGE %	0

Company Name The Travelers Indemnity Company of Connecticut Group Name St. Paul Travelers

NAIC Company Code 25682 NAIC Group Code 3548

Organized Under the Laws of the State of \_\_\_\_\_

Line of Insurance Commercial Multi-Peril Subline NA  
(as it appears in CA-RA3) (as it appears in CA-RA3)

Program NA

Home Office \_\_\_\_\_

Main Administrative Office in California Northern California Service Center  
2201 Walnut Avenue, Suite 300, Fremont, California 94537-5112

Name and Title of Contact Person Kathy Pohlman, Sr. Regulatory Analyst

Toll-Free Phone No.: (800) 328-2189 ext-05573 Fax No.: (651) 310-4361  
If not available, collect calls will be made.

Internet Address (if available): kpohlman@travelers.com

Mailing Address 385 Washington Street, St. Paul, Minnesota 55102

I declare under penalty of perjury, under the laws of the State of California, that the information filed is  
true, complete, and correct.

Kathy Pohlman March 8, 2007 (651) 310-5573  
Authorized Signature Date of Filing Telephone Number

RATE FILING BUREAU-SF  
MAR 09 2007  
STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE

#2102

APPLICATION FOR APPROVAL  
OF INSURANCE RATES

Your File #: 2006-11-0043-CMP

☒ Original ☐ Copy 1 ☐ Copy 2

Does this file contain group data? Yes ☐ No ☒

Is this a specialty filing? Yes ☐ No ☒

Note: A separate CA-RA1 page must be submitted  
for each company within a group filing.

Latest applicable CDI File No. in this Line,  
Subline, and/or Program:  
07-1272 & 1273 (Filing 2006-11-0043)

Department Use Only

FILING NO.:

07-1994

DATE FILED:

MAR 09 2007

COMPLIANCE DATE:

MAR 16 2007

DATE PUBLIC NOTIFIED:

MAR 23 2007

DEEMER DATE:

APR 22 2007

INTAKE ANALYST:

ZAMUDIOM

BUREAU CODE & SR.:

SF2-Sala761

For Group Filing :

Yes

No

X-Reference #:

07-1993

Rate

New Program

Rule

Form

Both Rate & Form

Class Plan

PERCENT CHANGE %

0

Company Name Travelers Property and Casualty Company of America Group Name St. Paul Travelers

NAIC Company Code 25674 NAIC Group Code 3548

Organized Under the Laws of the State of

Line of Insurance Commercial Multi-Peril  
(as it appears in CA-RA3)

Subline NA  
(as it appears in CA-RA3)

Program NA

Home Office

Main Administrative Office in California Northern California Service Center  
2201 Walnut Avenue, Suite 300, Fremont, California 94537-5112

Name and Title of Contact Person Kathy Pohlman, Sr. Regulatory Analyst

Toll-Free Phone No.: (800) 328-2189 ext-05573 Fax No.: (651) 310-4361

If not available, collect calls will be made.

Internet Address (if available): kpohlman@travelers.com

Mailing Address 385 Washington Street, St. Paul, Minnesota 55102

I declare under penalty of perjury, under the laws of the State of California, that the information filed is  
true, complete, and correct.

Kathy Pohlman

March 8, 2007

(651) 310-5573

Authorized Signature

Date of Filing

Telephone Number

RATE FILING BUREAU-SF  
MAR 09 2007  
STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE



Travelers  
385 Washington Street  
St. Paul, MN 55102-1396  
651.310.7911 TEL  
www.travelers.com

**SENT VIA OVERNIGHT MAIL**

March 8, 2007

California Department of Insurance  
Rate Regulation Division  
Rate Filing Bureau  
45 Fremont Street, 23<sup>rd</sup> Floor  
San Francisco, CA 94105

**THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT**  
**TRAVELERS PROPERTY AND CASUALTY COMPANY OF AMERICA**  
Commercial Multi-Peril  
Form and Rule Submission  
**Filing Number: 2006-11-0043-CMP**

**RATE FILING BUREAU—SF**

**MAR 09 2007**

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE**

Dear Sir or Madam:

In compliance with the insurance laws and regulations in your state, we respectfully submit this filing.

This filing introduces a new endorsement, Exclusion of Loss Due to Virus or Bacteria - Form IL T3 82 08 06. This mandatory endorsement amends the policy by excluding loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

In conjunction with the new form, we are also filing a new rule page to incorporate Form IL T3 82 08 06 into the manual. There are no claims paid or reserved by the excluded perils, no dollar impact to continue coverage of these perils, no rate adjustment being made, or coverage buy-back options.

**Enclosures and Implementation:**

Enclosed you will find the following:

- Exclusion of Loss Due To Virus Or Bacteria, Form IL T3 82 08 06
- Travelers Supplement – ISO Commercial Lines Manual General Rules TSR-GR-4a Ed. 04-07

We propose to implement this filing for policies effective on and after **May 14, 2007**. Your approval of this filing will be appreciated.

Sincerely,

Kathy Pohlman, CPCU, AIS  
Sr. Regulatory Analyst  
Travelers Regulatory Affairs  
Commercial and Specialty Lines  
Direct: (651) 310-5573  
Toll Free: (800) 328-2189 ext. 05573  
Fax: (651) 310-4361  
Email: kpohlman@travelers.com  
KP/kac  
Enclosure



Insurer Name: The Travelers Indemnity Company of Connecticut and  
Travelers Property and Casualty Company of America

DEPARTMENT OF INSURANCE

Line of Business: Commercial Multi-Peril

## PROPERTY &amp; LIABILITY FILING SUBMISSION DATA SHEET

*This application must be accurately completed and accompany each filing or modification. If this application is not properly completed, the filing will be **REJECTED**.*

The purpose of this filing is as follows: (More than one item may be marked.)

Pages & Documents Required

_____	Rates	
	Increase Rates	CA-RA1 through 8 plus Exhibits
_____	Decrease Rates	CA-RA1 through 8 plus Exhibits
_____	Zero Overall Rate Impact	CA-RA1 through 8 plus Exhibits
_____	Forms with Rate Impact	
_____	With Corresponding Rule Change	CA-RA1 through 8 plus Exhibits and CA-FA1 through 2
X	Without Rule Impact	CA-RA1, 2, 3, 4 and CA-FA1 & 2
X	Manual Rules	CA-RA1, 2, 3, 4
_____	Rating rules	CA-RA1 through 8 plus Exhibits
_____	New Program	CA-RA1, 2, 3, 4, 5, 8 plus Exhibit 23

**All Private Passenger Automobile class plans must be filed separately from the Prior Approval rate application.**

STATE OF CALIFORNIA

Insurer's Name: The Travelers Indemnity Company of Connecticut and  
Travelers Property and Casualty Company of America

DEPARTMENT OF INSURANCE

Line of Business: Commercial Multi-Peril

PROPERTY & LIABILITY FILING SUBMISSION DATA SHEET (CONT.)

Proposed Earned Premium per Exposure: \$NA

Proposed Overall Rate Change: 0

	<u>Coverage</u>	<u>Indicated Change (%)</u>	<u>Proposed Change (%)</u>	<u>Current Level Earned Premium (\$)</u>	<u>Project Earned Premium (\$)</u>
1.	Commercial Multi- Peril	NA	NA	NA	NA
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
	TOTAL				

Item ID: 3675991 **STATE OF CALIFORNIA**

**Insurer's Name:** The Travelers Indemnity Company of Connecticut and  
Travelers Property and Casualty Company of America

**DEPARTMENT OF INSURANCE**

**Line of Business:** Commercial Multi-Peril

**FILING CHECKLIST**

Use this checklist to assemble all documents to constitute a proper filing.

<u>X</u>	Application for Approval (CA-RA1)
<u>X</u>	Filing Memorandum (include in all filings.)
<u>X</u>	Self-addressed, stamped envelope
<u>X</u>	Submission Data Sheet (CA-RA2)
<u>X</u>	Line of Business (CA-RA3)
<u>X</u>	Filing Checklist (CA-RA4)
<u>NA</u>	Rate-making Data (CA-RA5)
<u>NA</u>	Reconciliation Report (CA-RA6)
<u>NA</u>	Additional Data Required by Statute (CA-RA7)
<u>NA</u>	Miscellaneous Data (CA-RA8)

**SUPPORTING DATA EXHIBITS**

<u>NA</u>	Exhibit 1: Filing History
<u>NA</u>	Exhibit 2: Rate Level History
<u>NA</u>	Exhibit 3: Premium Adjustment Factor
<u>NA</u>	Exhibit 4: Premium Trend Factor
<u>NA</u>	Exhibit 5: Allocated Loss Adjustment Expense
<u>NA</u>	Exhibit 6: Loss Development Factors
<u>NA</u>	Exhibit 7: ALAE Development Factors
<u>NA</u>	Exhibit 8: Loss Trend, ALAE Trend, and Expense Trend
<u>NA</u>	Exhibit 9: Catastrophe Adjustment
<u>NA</u>	Exhibit 10: Policy Term Distribution

STATE OF CALIFORNIA

Insurer Name:

The Travelers Indemnity Company of Connecticut and  
Travelers Property and Casualty Company of America

DEPARTMENT OF INSURANCE

Line of Business:

Commercial Multi-Peril

**APPLICATION FOR FORMS FILING**

*Insurers who wish to use a new or replacement form in connection with a program already filed with the commissioner must furnish the following information and documentation for our review. Revisions must be highlighted and the corresponding manual pages must be provided.*

	<u>FORM NO.</u>	<u>TITLE</u>	<u>TYPE</u>	<u>SOURCE</u>	<u>SOURCE FORM NO.</u>	<u>CATEGORY</u>	<u>Restricts Coverage (Yes/No)</u>	<u>Broadens Coverage (Yes/No)</u>	<u>Rate Impact (Yes/No)</u>	<u>% Change</u>	<u>Flat Rate</u>
1) New:	IL T3 82 08 06	Exclusion of Loss Due to Virus or Bacteria	2	3	3	2	Yes	No	No	NA	NA
Old:											
2) New:											
Old:											
3) New:											
Old:											
4) New:											
Old:											

**SELECTED RESPONSES FOR THE ITEMS ABOVE**

**TYPE**

- 1) Application
- 2) Endorsement
- 3) Policy
- 4) Other (Please define)

**SOURCE:**

- 1) ISO \*
- 2) Other Advisory Org. (OAO)\*
- 3) Company
- 4) Other (State the name/s)

**CATEGORY:**

- 1) New, mandatory
- 2) New, optional
- 3) Replacement, mandatory
- 4) Replacement, optional
- 5) Withdrawn, mandatory
- 6) Withdrawn, optional

(\*) - Provide California Dept. of Insurance number (CDI #) under the column identified as Source Form No.

CA-FA1

05-15-96 ed.

Item ID: 3675989

STATE OF CALIFORNIA

Insurer Name: The Travelers Indemnity Company of Connecticut and  
Travelers Property and Casualty Company of America

DEPARTMENT OF INSURANCE

Line of Business: Commercial Multi-Peril

Documents to be filed

X Describe the purpose of the form or form change.

X For **NEW FORMS**, furnish a copy of the form to be filed, unless identical to an advisory organization form. If the form is a new endorsement to the policy, describe any changes in coverage under the policy. Describe what adjustments, if any, will be made to the premium due to the introduction of the forms.

NA For **REVISED FORMS**, describe any changes in coverage between the proposed form and the current form. Reference pertinent sections of each form affected. Brackets [ ] should be used to identify any deletions on the current form and underline all changes in the revised form. Describe what adjustments, if any, will be made to the premium due to the revisions.

CA-FA2

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA**

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART  
DELUXE PROPERTY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
FARM COVERAGE PART

- A.** The exclusion set forth in Paragraph **B.** applies to all coverage under all forms and endorsements that comprise this Coverage Part including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense, rental value or action of civil authority.
- B.** We will not pay for loss or damage caused by or resulting from any virus, bacterium or other micro-organism that induces or is capable of inducing physical distress, illness or disease.
- C.** With respect to any loss or damage subject to the exclusion in Paragraph **B.**, such exclusion supercedes any exclusion relating to "pollutants".
- D.** The terms of the exclusion in Paragraph **B.**, or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this Coverage Part or Policy.

**I. EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA**

**1. Description of Endorsement**

This mandatory exclusion excludes loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

This exclusion is used with the following Coverage Parts: Commercial Inland Marine, Commercial Property, Deluxe Property and Farm.

**2. Form**

Use Company Endorsement IL T3 82.

**3. Rate Modification**

There is no rate modification for the use of Endorsement IL T3 82.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**NATTY GREENE'S BREWING  
COMPANY, LLC, NATTY GREENE'S  
DOWNTOWN, LLC, EJE, INC. d/b/a CAFE  
PASTA, NATTY GREENE'S CREEKSIDE,  
LLC d/b/a KAU, JAKE'S DINER OF  
WENDOVER, INC. d/b/a JAKE'S DINER,  
DAAB, INC. d/b/a JAKE'S DINER, JAKE'S  
OF DRAWBRIDGE, LLC d/b/a JAKE'S  
DINER, JAKE'S OF BATTLEGROUND,  
LLC d/b/a JAKE'S DINER, RIO GRANDE  
#14, INC d/b/a RIO GRANDE MEXICAN  
KITCHEN, RIOS, INC. d/b/a RIO'S  
MEXICAN GRILLE and RIO GRANDE  
FRIENDLY, INC. d/b/a RIO GRANDE  
MEXICAN KITCHEN**

**Plaintiffs,**

**v.**

**TRAVELERS CASUALTY INSURANCE  
COMPANY OF AMERICA, SENTINEL  
INSURANCE COMPANY, LIMITED,  
REPUBLIC FRANKLIN INSURANCE  
COMPANY, FRANKENMUTH MUTUAL  
INSURANCE COMPANY and  
STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY**

**Defendants.**

**Civil Action No.: 1:20-cv-437**

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT  
TRAVELERS CASUALTY INSURANCE COMPANY OF AMERICA**



Defendant Travelers Casualty Insurance Company of America (“Travelers”), by and through its legal counsel, hereby responds to the numbered paragraphs of the Second Amended Complaint as follows:

1. Travelers admits the allegations of paragraph 1 only as to Plaintiffs EJE, Inc. d/b/a Café Pasta (“EJE”) and Rio Grande # 14, Inc. (“Rio Grande # 14”). Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 as they relate to any other Plaintiff.

2. Travelers admits that it is licensed to conduct business in North Carolina, including to sell insurance policies to restaurants and other hospitality businesses. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 as they relate to other Defendants. Travelers denies the remaining allegations of paragraph 2.

3. Travelers admits that it sold an insurance policy to EJE bearing policy number 680-8N563604-19-42, with effective dates of August 26, 2019 to August 26, 2020 (the “EJE Policy”). A certified copy of the EJE Policy is attached hereto as Exhibit A. Travelers admits that it sold an insurance policy to Rio Grande # 14 bearing policy number 680-8D392618-19-42, with effective dates of November 8, 2019 to November 8, 2020 (the “Rio Grande # 14 Policy”). A certified copy of the Rio Grande # 14 Policy is attached hereto as Exhibit B. Travelers denies that the EJE Policy or the Rio Grande # 14 Policy “provided applicable insurance coverage as alleged” in the Second Amended Complaint. Further answering, Travelers states that the EJE Policy and the Rio Grande #

14 Policy are contracts, the terms of which speak for themselves. Travelers admits, upon information and belief, that certain of the other Defendants sold an insurance policy to certain of the other Plaintiffs, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 3.

4. Travelers denies, upon information and belief, that “each of the defendants sold insurance products to them [Plaintiffs] in this county.” Travelers lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 4.

5. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5.

6. Travelers denies that “COVID-19” is a virus. Further answering, Travelers admits that SARS-CoV-2 (hereinafter the “Virus”), is a type of contagious Coronavirus, and that it that spread across the world and arrived in the United States. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 6.

7. Travelers denies the allegations of paragraph 7. Further answering, Travelers states that the World Health Organization declared COVID-19, the illness caused by the Virus, to be a pandemic.

8. Travelers admits that COVID-19 is a crisis that has impacted American life on a massive scale, but denies the remaining allegations of paragraph 8.

9. Travelers admits, upon information and belief, that federal and state authorities have mandated social distancing, and that states have greatly limited the number of people who can gather in certain settings. Travelers also admits, upon information and belief, that social distancing and limitations on gatherings were mandated to prevent the further spread of the Virus and COVID-19. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 9.

10. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10.

11. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11.

12. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12.

13. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13.

14. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14.

15. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15.

16. Travelers admits that on March 17, 2020, North Carolina Governor Roy Cooper issued Executive Order No. 118, a true and accurate copy of which is attached

hereto as Exhibit C. Travelers admits that Executive Order No. 118 says that “Bars are directed to close,” and that it was issued, in part, to prevent the further spread of the Virus and COVID-19. Travelers denies the remaining allegations of paragraph 16. Further answering, Travelers states that Executive Order No. 118 speaks for itself.

17. Travelers admits that on March 27, 2020, Governor Cooper issued Executive Order No. 121, a true and accurate copy of which is attached hereto as Exhibit D. Travelers denies the remaining allegations of the first sentence of paragraph 17 and, further answering, states that Executive Order No. 121 speaks for itself. Travelers admits that Governor Cooper did not issue Executive Order No. 121 “because of damages being caused by the virus itself,” and that he did issue Executive Order No. 121 in order to mitigate community spread of the Virus and COVID-19. Travelers denies the remaining allegations of the second sentence of paragraph 17. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the third sentence of paragraph 17.

18. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18.

19. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19.

20. Travelers denies the allegations of paragraph 20 to the extent they are directed at Travelers. Travelers lacks knowledge or information sufficient to form a belief

as to the truth of the allegations of paragraph 20 to the extent they are directed at other Defendants and other insurers.

21. Travelers denies the allegations of the first sentence of paragraph 21 to the extent such allegations are directed at Travelers. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 21 to the extent they are directed at other Defendants. Travelers denies the allegations of the second sentence of paragraph 21. Further answering, Travelers states that the EJE Policy and the Rio Grande # 14 Policy are contracts, the terms of which speak for themselves.

22. Travelers denies the allegations of paragraph 22 as they relate to EJE and Rio Grande # 14. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22 as they relate to other Plaintiffs.

23. Travelers denies the allegations of the first sentence of paragraph 23 as they relate to the EJE Policy and the Rio Grande # 14 Policy. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence as they relate to insurance policies issued by other Defendants. Travelers admits the allegations of the second sentence of paragraph 23 as they relate to the EJE Policy and the Rio Grande # 14 Policy. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations of the second sentence of paragraph 23 as they relate to insurance policies issued by other Defendants. Travelers denies the allegations of the third sentence of paragraph 23 as they relate to EJE Policy

and the Rio Grande # 14 Policy. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations of the third sentence as they relate to insurance policies issued by other Defendants. Further answering, Travelers states that the EJE Policy and the Rio Grande # 14 Policy are contracts, the terms of which speak for themselves.

24. Travelers denies the allegations of paragraph 24 as they relate to the EJE Policy and the Rio Grande # 14 Policy. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24 as they relate to insurance policies issued by other Defendants. Further answering, Travelers states that the EJE Policy and the Rio Grande # 14 Policy are contracts, the terms of which speak for themselves.

25. Travelers admits that the EJE Policy and the Rio Grande # 14 Policy do not define the term “Direct Physical Loss.” Further answering, Travelers states that the EJE Policy and the Rio Grande # 14 Policy are contracts, the terms of which speak for themselves. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 25 as they relate to insurance policies issued by other Defendants. Travelers denies the allegations of the second sentence of paragraph 25. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the third and fourth sentences of paragraph 25.

**FIRST CAUSE OF ACTION**

**(Declaratory Judgment)**

26. Travelers repeats its responses to the allegations of paragraphs 1 through 25 of the Second Amended Complaint and incorporates same herein by reference.

27. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiffs' damages continue to accrue, but denies the allegation that any Plaintiff has suffered damages due to any action or omission on the part of Travelers. Travelers denies the remaining allegations of paragraph 27 as they relate to Travelers. Travelers is without knowledge or information sufficient to form a belief as to the truth of those allegations as they relate to other Defendants.

28. Paragraph 28 states a conclusion of law to which Travelers is not obligated to respond. To the extent paragraph 28 is deemed to allege any facts, Travelers denies all such allegations.

29. Paragraph 29 purports to articulate the declaratory relief that Plaintiffs seek against Defendants and does not require a response from Travelers. To the extent that paragraph 29 is deemed to state any allegations of fact, all such allegations are denied. Further answering, Travelers denies that Plaintiffs, or any of them, are entitled to a declaratory judgment or any other relief against Travelers.

**SECOND CAUSE OF ACTION**

**(Breach of Contract)**

30. Travelers repeats its responses to the allegations of paragraphs 1 through 29 of the Second Amended Complaint and incorporates same herein by reference.

31. Travelers admits that it entered into insurance contracts with EJE and with Rio Grande # 14. Travelers admits that EJE and Rio Grande # 14 each paid the premiums due under the policy it issued respectively to them. Travelers denies that it entered into a contract with any other Plaintiff. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 as they relate to other Defendants.

32. Travelers denies the allegations of paragraph 32 as they relate to Travelers. Travelers lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32 as they relate to other Defendants.

33. Travelers denies the allegations of paragraph 33 as they relate to Travelers. Travelers lacks knowledge or information sufficient to form a belief as to the truth of those allegations as they relate to other Defendants.

34. Travelers denies the allegations of paragraph 34 as they relate to Travelers. Travelers lacks knowledge or information sufficient to form a belief as to the truth of those allegations as they relate to other Defendants.



Travelers denies the allegations of the paragraph on page 6 of the Second Amended Complaint beginning with the word “WHEREFORE,” and denies that Plaintiffs, or any of them, are entitled to any form of relief against Travelers.

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

The Second Amended Complaint fails to state a claim against Travelers upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(No Justiciable Controversy under N.C.G.S. § 1-253, et seq.)**

The First Cause of Action (Declaratory Judgment) is barred as against Travelers because there is no *bona fide* dispute between Travelers and any Plaintiff concerning any policy of insurance issued by Travelers.

**THIRD AFFIRMATIVE DEFENSE**

**(Lack of Standing)**

Plaintiffs’ claims against Travelers are barred due to their lack of standing.

**FOURTH AFFIRMATIVE DEFENSE**

**(Virus Exclusion - EJE Policy)**

Plaintiff EJE’s claims against Travelers are barred by the following exclusion in the EJE Policy:

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

...

- A. The exclusion set forth in Paragraph B. applies to all coverage under all forms and endorsements that comprise this Coverage Part or Policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense, rental value or action of civil authority.
- B. We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

...

#### **FIFTH AFFIRMATIVE DEFENSE**

##### **(Virus Exclusion – Rio Grande # 14 Policy)**

Plaintiff Rio Grande # 14's claims against Travelers are barred by the following exclusion in the Rio Grande # 14 Policy:

This endorsement modifies insurance provided under the following:

#### **COMMERCIAL PROPERTY COVERAGE PART**

...

- A. The exclusion set forth in Paragraph B. applies to all coverage under all forms and endorsements that comprise this Coverage Part or Policy, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense, rental value or action of civil authority.
- B. We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

...

#### **SIXTH AFFIRMATIVE DEFENSE**

##### **(Ordinance or Law Exclusion – EJE Policy)**

Plaintiff EJE's claims against Travelers are barred by the following exclusion in the EJE Policy:

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

**a. Ordinance or Law**

- (1) The enforcement of any ordinance or law:
  - (a) Regulating the construction, *use* or repair of any property; or
  - (b) Requiring the tearing down of any property, including the cost of removing the debris.
- (2) This exclusion, Ordinance or Law, applies whether the loss results from:
  - (a) An ordinance or law that is enforced even if the property has not been damaged;

...

**SEVENTH AFFIRMATIVE DEFENSE**

**(Ordinance or Law Exclusion – Rio Grande # 14 Policy)**

Plaintiff Rio Grande # 14's claims against Travelers are barred by the following exclusion in the Rio Grande # 14 Policy:

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

**a. Ordinance or Law**

- (1) The enforcement of any ordinance or law:
  - (a) Regulating the construction, *use* or repair of any property; or
  - (b) Requiring the tearing down of any property, including the cost of removing the debris.

(2) This exclusion, Ordinance or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged;

### **EIGHTH AFFIRMATIVE DEFENSE**

#### **(Loss of Use/Loss of Market Exclusion – EJE Policy)**

Plaintiff EJE's claims against Travelers are barred by the following exclusion in the EJE Policy:

2. We will not pay for loss or damage caused by or resulting from any of the following:

\*\*\*

b. Delay, loss of use or loss of market.

### **NINTH AFFIRMATIVE DEFENSE**

#### **(Loss of Use/Loss of Market Exclusion – Rio Grande # 14 Policy)**

Plaintiff Rio Grande # 14's claims against Travelers are barred by the following exclusion in the Rio Grande # 14 Policy:

2. We will not pay for loss or damage caused by or resulting from any of the following:

\*\*\*

b. Delay, loss of use or loss of market.

**TENTH AFFIRMATIVE DEFENSE**

**(Contamination Exclusion – EJE Policy)**

Plaintiff EJE's claims against Travelers are barred by the following exclusion in the EJE Policy:

2. We will not pay for loss or damage caused by or resulting from any of the following:

...

[d.] (8) Contamination by other than "pollutants".

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Contamination Exclusion – Rio Grande # 14 Policy)**

Plaintiff Rio Grande # 14's claims against Travelers are barred by the following exclusion in the Rio Grande # 14 Policy:

2. We will not pay for loss or damage caused by or resulting from any of the following:

...

[d.] (8) Contamination by other than "pollutants".

**TWELFTH AFFIRMATIVE DEFENSE**

**(Acts or Decisions Exclusion – EJE Policy)**

Plaintiff EJE's claims against Travelers are barred by the following exclusion in the EJE Policy:

3. We will not pay for loss or damage caused by or resulting from any of the following under Paragraphs a. through c. ...

b. Acts or decisions, including the failure to act or decide, of

any person, group, organization or governmental body.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Acts or Decisions Exclusion – Rio Grande # 14 Policy)**

Plaintiff Rio Grande # 14's claims against Travelers are barred by the following exclusion in the Rio Grande # 14 Policy:

3. We will not pay for loss or damage caused by or resulting from any of the following under Paragraphs **a.** through **c.** ...
  - b.** Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Comply With Policy Conditions - EJE)**

Plaintiff EJE's claims against Travelers are barred, in whole or in part, by its failure to comply with the following conditions of the EJE Policy:

**3. Duties in the Event of Loss or Damage**

- a.** You must see that the following are done in the event of loss or damage to Covered Property:
  - ...
  - (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
  - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
  - ...
  - (9) Cooperate with us in the investigation and settlement of the claim.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Comply With Policy Conditions – Rio Grande # 14)**

Plaintiff Rio Grande # 14's claims against Travelers are barred, in whole or in part, by its failure to comply with the following conditions of the Rio Grande # 14 Policy:

**3. Duties in the Event of Loss or Damage**

- a. You must see that the following are done in the event of loss or damage to Covered Property:

...

- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.

...

- (9) Cooperate with us in the investigation and settlement of the claim.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Legal Action Against Us Condition – EJE Policy)**

Plaintiff EJE's claims against Travelers are barred due to its failure to comply with the following condition of the EJE Policy:

**4. Legal Action Against Us**

No one may bring a legal action against us under this Coverage Form unless:

- a. There has been full compliance with all of the terms of this Coverage Form; and
- b. The action is brought within 3 years after the date on which the direct physical loss or damage occurred.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Legal Action Against Us Condition – Rio Grande # 14 Policy)**

Plaintiff Rio Grande # 14's claims against Travelers are barred due to its failure to comply with the following condition of the Rio Grande # 14 Policy:

**4. Legal Action Against Us**

No one may bring a legal action against us under this Coverage Form unless:

- a.** There has been full compliance with all of the terms of this Coverage Form; and
- b.** The action is brought within 3 years after the date on which the direct physical loss or damage occurred.

**PRAYER FOR RELIEF**

WHEREFORE, Travelers prays for judgment as follows:

1. That judgment be granted in favor of Travelers on Plaintiffs' Second Amended Complaint;
2. That Travelers be awarded its reasonable costs incurred herein; and
3. For such other and further relief as this Court deems just and proper.

Respectfully submitted this 12th day of June, 2020.



**TRAVELERS CASUALTY INSURANCE  
COMPANY OF AMERICA and  
TRAVELERS INDEMNITY COMPANY**

By: /s/ Reid C. Adams, Jr.

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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on June 12, 2020, he filed the foregoing document using this court's CM/ECF system, which will automatically notice all counsel who have filed a notice of appearance in this action.

/s/ Reid C. Adams, Jr.

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*Attorney for Travelers Casualty Insurance  
Company of America*

AGN. NO.

MOTION BY SUPERVISORS HILDA L. SOLIS  
AND SHEILA KUEHL

April 14, 2020

**Expansion of Tenant Protections During the COVID-19 Crisis to Preserve and Increase Housing Security and Stability and Prevent Further Homelessness**

On March 4, 2020, the Los Angeles County (County) Board of Supervisors (Board) proclaimed the existence of a local health emergency due to the novel coronavirus (COVID-19 emergency). On March 19, 2020, pursuant to California Government Code Section 8550 and Los Angeles County Code (Code) Section 2.68.150, the Chair of the Board issued an Executive Order, which among other actions, placed a temporary moratorium on evictions for non-payment of rent by residential or commercial tenants in unincorporated areas impacted by COVID-19 (Moratorium). On March 31, 2020, the Board of Supervisors ratified this Executive Order, which will be in effect from March 4, 2020 through May 31, 2020 (Moratorium Period), unless extended further, and amended the ratified Executive Order to include a ban on rent increases in the unincorporated County to the extent permitted by State law and consistent with Chapter 8.52 of the County Code. The Moratorium will provide timely and necessary relief to tenants who are struggling due to the economic repercussions of the COVID-19 emergency. However, the

**MOTION**

SOLIS	_____
RIDLEY-THOMAS	_____
KUEHL	_____
HAHN	_____
BARGER	_____

following additional policies and modifications should be adopted to preserve and increase housing security and stability and to prevent Los Angeles County residents from falling into homelessness due to this crisis, for the preservation of life and property.

**WE, THEREFORE, MOVE** that the Board of Supervisors adopt the Resolution to amend the Executive Order in order to:

1. Include a temporary moratorium on evictions for non-payment of space rent for mobilehome owners who rent space in mobilehome parks;
2. Expand to all jurisdictions within the County of Los Angeles pursuant to Government Code section 8630, et seq. and Chapter 2.68 of the County Code with considerations for cities that already have local eviction moratoria in place;
3. Prohibit rent increases for residential units and mobilehome owners from March 4, 2020 through May 31, 2020, unless extended further, to the extent permitted by State law and consistent with Chapters 8.52 and 8.57 of the County Code. The Executive Order shall also prohibit a landlord from imposing any new pass-throughs or charging interest and/or late fees for unpaid rent during the Moratorium Period, and bar landlords from attempting to collect interest and late fees incurred during this Moratorium Period following the termination of the Executive Order;
4. Encourage landlords and tenants to agree on a payment plan that would allow landlords to accept partial rent payments during the Moratorium if tenants are able to make such payments;

5. Extend the repayment period from six (6) months to 12 months following the end of the Moratorium Period;
6. Further define financial impact and relation to COVID-19, as well as prohibit an eviction during the Moratorium Period based on the presence of unauthorized occupants, pets, or nuisance necessitated by or related to the COVID-19 emergency;
7. Allow tenants to provide and require landlords to accept a self-certification of a tenant's inability to pay rent and to provide notice to the landlord to that effect;
8. Prohibit landlords, and those acting on their behalf, from harassing or intimidating tenants for acts or omissions expressly permitted under the Executive Order, as amended, and the attached Resolution; and
9. Address the County's public policy and intent to close certain businesses to protect public health, safety and welfare, and the County recognizes that the interruption of any business will cause loss of and damage to the business. Therefore, the County finds and declares that the closure of these businesses is mandated for the public health, safety and welfare and that the physical loss of and damage to businesses is resulting from the shutdown and that these businesses have lost the use of their property and are not functioning as intended.

# # #

HLS:wr/mr

**RESOLUTION OF THE BOARD OF SUPERVISORS  
AMENDING THE EXECUTIVE ORDER FOR AN EVICTION MORATORIUM DURING  
THE COVID-19 LOCAL EMERGENCY RATIFIED ON MARCH 31, 2020**

**WHEREAS**, on March 4, 2020, the Chair of the Los Angeles County Board of Supervisors ("Board") proclaimed, pursuant to Chapter 2.68 of the Los Angeles County Code, and the Board ratified that same day, the existence of a local emergency because the County of Los Angeles ("County") is affected by a public calamity due to conditions of disaster or extreme peril to the safety of persons and property arising as a result of the introduction of the novel coronavirus ("COVID-19") in Los Angeles County;

**WHEREAS**, also on March 4, 2020, the County Health Officer determined that there is an imminent and proximate threat to the public health from the introduction of COVID-19 in Los Angeles County, and concurrently declared a Local Health Emergency;

**WHEREAS**, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 that authorizes local governments to halt evictions for renters, encourages financial institutions to slow foreclosures, and protects renters and homeowners against utility shutoffs for Californians affected by COVID-19;

**WHEREAS**, on March 19, 2020, the Chair of the Board issued an Executive Order ("Executive Order") that imposed a temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by COVID-19 ("Moratorium"), commencing March 4, 2020 through May 31, 2020 ("Moratorium Period");

**WHEREAS**, on March 21, 2020, due to the continued rapid spread of COVID-19 and the need to protect the community, the County Health Officer issued a revised Safer at Home Order for Control of COVID-19 ("Safer at Home Order") prohibiting all events and gatherings and closing non-essential businesses and areas until April 19, 2020;

**WHEREAS**, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 extending the period for response by tenants to unlawful detainer actions and prohibiting evictions of tenants who satisfy the requirements of Executive Order N-37-20;

**WHEREAS**, on March 31, 2020, the Board ratified the County's Executive Order and amended the ratified Executive Order to include a ban on rent increases in the unincorporated County to the extent permitted by State law and consistent with Chapter 8.52 of the County Code;

**WHEREAS**, on April 6, 2020, the California Judicial Council, the policymaking body of the California courts, issued eleven temporary emergency measures, of which Rules 1 and 2 effectively provide for a moratorium on all evictions and judicial foreclosures;



**WHEREAS**, COVID-19 is causing and is expected to continue to cause serious financial impacts to Los Angeles County residents and businesses, including the substantial loss of income due to illness, business closures, loss of employment, or reduced hours, impeding their ability to pay rent;

**WHEREAS**, displacing residential and commercial tenants who are unable to pay rent due to such financial impacts will worsen the present crisis by making it difficult for them to comply with the Safer at Home Order, thereby placing tenants and many others at great risk;

**WHEREAS**, while it is the County's public policy and intent to close certain businesses to protect public health, safety and welfare, the County recognizes that the interruption of any business will cause loss of and damage to the business. Therefore, the County finds and declares that the closure of these businesses is mandated for the public health, safety and welfare and that the physical loss of and damage to businesses is resulting from the shutdown and that these businesses have lost the use of their property and are not functioning as intended;

**WHEREAS** because homelessness and instability can exacerbate vulnerability to, and the spread of, COVID-19, the County must take measures to preserve and increase housing security and stability for Los Angeles County residents to protect public health;

**WHEREAS**, a County-wide approach to restricting displacement is necessary to accomplish the public health goals of limiting the spread of the COVID-19 virus as set forth in the Safer at Home Order;

**WHEREAS**, based on the County's authority during a state of emergency pursuant to Government Code section 8630, et seq. and Chapter 2.68 of the County Code, the County may issue orders to all incorporated cities within the County to provide for the protection of life and property, where necessary to preserve the public order and safety; and

**WHEREAS**, due to the continued, rapid spread of COVID-19 and the need to preserve life and property, the County has determined that continued evictions in the County and all of its incorporated cities during this COVID-19 crisis would severely impact the health, safety and welfare of County residents.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DOES HEREBY PROCLAIM, RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1:** The Executive Order is hereby amended to also include a temporary moratorium on eviction for non-payment of space rent on mobilehome owners who rent space in mobilehome parks. This Executive Order is expanded to include all incorporated cities within the County of Los Angeles pursuant to Government Code section 8630, et

seq. and Chapter 2.68 of the County Code, exempting therefrom cities that have local eviction moratoria in place.

**SECTION 2:** The Executive Order has been ratified and amended to prohibit rent increases for residential units and mobilehome owners in the unincorporated County during the Moratorium Period, unless extended, to the extent permitted by State law and consistent with Chapters 8.52 and 8.57 of the County Code. The Executive Order, also prohibits a landlord from imposing any new pass-throughs permitted in Chapters 8.52 and 8.57 of the County Code or charging interest or late fees on unpaid rent during the Moratorium Period, and bars landlords from attempting to collect any interest and late fees incurred during this Moratorium Period following the termination of the Moratorium.

**SECTION 3:** The Executive Order hereby amends Paragraph 1.b to read as follows: "For purposes of this Executive Order, 'financial impacts' means substantial loss of household income or loss of revenue or business for commercial tenants due to business closure, loss of compensable hours of work or wages, layoffs, or extraordinary out-of-pocket medical expenses. A financial impact is "related to COVID-19" if it was a result of any of the following: (1) suspected or confirmed case of COVID-19, or caring for a household or family member who is suspected or confirmed with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from the County's Health Officer to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses related to diagnosis and testing for and/or treatment of COVID-19; or (5) child care needs arising from school closures related to COVID-19. No landlord shall initiate an eviction proceeding during the Moratorium Period for unauthorized occupants, pets or nuisance as necessitated by or related to the COVID-19 emergency. For purposes of this Executive Order, a commercial tenant includes, but is not limited to, a tenant using a property as a storage facility for commercial purposes."

**SECTION 4:** The Executive Order hereby amends Paragraph 1.e to read as follows: "Tenants shall have twelve (12) months following the end of the Moratorium Period to pay the Landlord any amounts due and owing pursuant to Paragraph I. Tenants and Landlords are encouraged to agree to a payment plan during this twelve-month period, but nothing in this Executive Order shall be construed to prevent a Landlord from requesting and accepting partial rent payments, or a Tenant from making such payments, during the twelve-month period if the Tenant is financially able to do so. Residential Tenants, and commercial Tenants with less than ten (10) employees, may provide and Landlord must accept a self-certification of Tenant's inability to pay rent and to provide notice to the Landlord to that effect."

**SECTION 5:** The Executive Order is hereby amended to prohibit landlords, and those acting on their behalf, from harassing or intimidating tenants for acts or omissions by tenant expressly permitted under the Executive Order, as amended, and this Resolution.



**SECTION 6:** The Executive Order is hereby amended to address the County's public policy and intent to close certain businesses to protect public health, safety and welfare, and the County recognizes that the interruption of any business will cause loss of and damage to the business. Therefore, the County finds and declares that the closure of these businesses is mandated for the public health, safety and welfare and that the physical loss of and damage to businesses is resulting from the shutdown and that these businesses have lost the use of their property and are not functioning as intended.

**SECTION 7:** That this Resolution shall take effect immediately upon its passage and shall remain in effect until May 31, 2020, unless extended or repealed by the Board of Supervisors, or its designee.

The foregoing Resolution was adopted on the 14<sup>th</sup> day of April 2020, by the Board of Supervisors of the County of Los Angeles.



Board of Supervisors of the  
County of Los Angeles

By Karmyn Barger  
Chair

APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

By: Suzanne Pouchet  
Deputy

ATTEST: CELIA ZAVALA  
EXECUTIVE OFFICER  
CLERK OF THE BOARD OF SUPERVISORS

By: Rachelle Lmi Heuman, Deputy

**CERTIFICATE OF SERVICE**

I hereby certify that on July 24, 2020, I caused to be filed the foregoing document. This document is being filed electronically using the Court's electronic case filing (ECF) system, which will automatically send a notice of electronic filing to the email addresses of all counsel of record.

Dated: July 24, 2020

Respectfully submitted,

**KABATECK LLP**

By: /s/ Christopher B. Noyes  
Christopher B. Noyes  
*Attorneys for Plaintiff*