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CASE NO: A-21-829884-C
Department 28

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DISTRICT COURT
CLARK COUNTY, NEVADA

HUNTER CAIN, individually and on behalf of all
those similarly situated,

Case No.:
Dept. No.:

Plaintiff,

vs.

COMPLAINT

USAA CASUALTY INSURANCE COMPANY,
DOES 1 through 10,

**REQUEST FOR BUSINESS
COURT**

Defendants.

**EXEMPT FROM
ARBITRATION**

Jury Trial Demanded

Plaintiff, Hunter Cain, by and through undersigned counsel and on behalf of himself and
all other similarly situated, hereby submits this Class Action Complaint against Defendant, USAA
CASUALTY INSURANCE COMPANY (hereinafter "USAA"), and DOES 1 through 10.

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I. INTRODUCTION

1. This action seeks class-wide relief for Defendant USAA’s failure to provide and charge a fair and appropriate insurance premium and to provide premium reduction to its Nevada automobile insurance policyholders amid the COVID-19 pandemic.

2. Plaintiff brings this action on behalf of himself and on behalf of all Nevada residents who held automobile insurance policies through USAA as of March 1, 2020, and who have thereafter continued to be USAA automobile policyholders.

3. Plaintiff and the class, along with everyone in this country, have faced substantial life changes since March 1, 2020 because of the COVID-19 pandemic, including reduced driving time and miles. The reduction of driving time and miles driven reduces the risk associated with insuring Plaintiff and the class members’ vehicles. USAA has not taken the appropriate action to reduce Plaintiff and the class members’ premiums to accurately reflect the decreased risk.

II. PARTIES

4. Plaintiff, Hunter Cain, is a resident of the State of Nevada, and a current automobile insurance policyholder of USAA.

5. Defendant, USAA Casualty Insurance Company, is a Texas company, with offices at 9800 Fredericksburg Road, San Antonio, Texas, 78288, and is licensed in Nevada to sell automobile insurance policies within the State of Nevada.

6. Defendants DOE 1 through 10 are insurance companies that fall within the USAA umbrella that provide policies of automobile insurance to Nevada residents.

7. That the true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendants herein designated as DOE are unknown to Plaintiff at this time who therefore sue said Defendants by fictitious names. Plaintiff alleges that each named Defendant herein designated as DOE is negligently, willfully, contractually, or otherwise legally responsible for the events and happenings herein referred to and proximately caused damages to Plaintiff as herein alleged. Plaintiff will seek leave of Court to amend this Complaint to insert the true names and capacities of such Defendants when same have been ascertained and will further seek leave

1 to join said Defendant in these proceedings. Plaintiff believes each Defendant named as DOE was
2 responsible for contributing to Plaintiff’s damages as set forth herein.

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4 **III. JURISDICTION AND VENUE**

5 8. That exercise of jurisdiction by this Court over each and every Defendant in this action is
6 appropriate because each and every Defendant has done, and continues to do business in the State
7 of Nevada, and contracted with Nevada residents, breached contracts with Nevada residents, and
8 violated Nevada laws.

9 9. USAA is an insurance company licensed to do business in Nevada, and it sells automobile
10 insurance to Nevada residents and charges and collects premiums from those citizens.

11 10. USAA sold a Nevada insurance policy to Plaintiff where he resides in Clark County,
12 Nevada.

13 11. That exercise of jurisdiction by this Court is further appropriate where Plaintiff resides in
14 the County of Clark, State of Nevada.

15 12. That this Court has jurisdiction over the subject matter of this action. That exercise of the
16 jurisdiction by this Court over USAA in this action is appropriate because USAA has done, and
17 continues to do, business in the State of Nevada, and committed the wrongdoings alleged in this
18 Complaint in the State of Nevada. Additionally, this Court has jurisdiction over the claims alleged
19 herein as they arise out of contracts entered into with Nevada residents and USAA’s actions
20 violate Nevada law.

21 **IV. FACTUAL BACKGROUND APPLICABLE TO THE PROPOSED CLASS**

22 13. USAA is a prolific underwriter of automobile insurance in Nevada.

23 14. On information and belief, and throughout the entirety of the COVID-19 pandemic,
24 USAA has enjoyed a substantial share of the auto insurance market in Nevada. At all times
25 relevant to this case, USAA has derived substantial revenues and profits from the sale of
26 automobile insurance to Nevada residents, including Plaintiff, and all others similarly situated.

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V. GENERAL ALLEGATIONS

15. Coronavirus disease 2019 (“COVID-19”), is a novel, virus-borne, and potentially deadly illness that impacts various systems within the body of those infected with the disease. Since its emergence in late 2019, it has spread rapidly across the globe, reaching pandemic levels. On January 20, 2020, it was declared a “public health emergency of international concerns” by the World Health Organization. A week later, the U.S. Secretary of Health and Human Services declared the virus a public health emergency in the United States.

16. COVID-19 is highly contagious and appears capable of spreading exponentially through transmission by persons who are symptomatic, asymptomatic, or pre-symptomatic.

17. As of the date of this complaint, the U.S. Centers for Disease Control and Prevention has recorded over 28 million cases of COVID-19, and over 497,000 COVID-related deaths in the U.S. alone.

18. The State of Nevada suffered over 4,700 COVID-related deaths as of the date of this Complaint.¹

19. On March 12, 2020, Nevada Governor Steve Sisolak issued the Declaration of Emergency for COVID-19.² In that declaration, the Governor “determined that the State of Nevada is experiencing events that require a coordinated response for the health and safety of the public.”³ The declaration “will remain in effect until the Chief Medical Officer notifies the Governor that the health event has been abated and the Governor issues an order terminating the emergency.”⁴

20. On March 15, 2020, Governor Sisolak issued the COVID-19 Declaration of Emergency Directive 001 closing all “public, community, and private K-12 schools in the state” until the Order is rescinded.⁵

¹ <https://nvhealthresponse.nv.gov/> (last visited February 22, 2021).

² [https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12 - COVID-19 Declaration of Emergency/](https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/) (last visited January 28, 2021).

³ *Id.*

⁴ *Id.*

⁵ [https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15 - COVID-19 Declaration of Emergency Directive 001/](https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/) (last visited January 28, 2021).

1 21. On March 19, 2020, Governor Sisolak issued COVID-19 Declaration of Emergency
 2 Directive 002 closing all in-person gaming establishments.⁶

3 22. On March 20, 2020, Governor Sisolak issued COVID-19 Declaration of Emergency
 4 Directive 003 closing all “non-essential businesses” that promote social gatherings and prolonged
 5 interactions between individuals where risk of transmission is high.⁷ These businesses included
 6 recreation centers, clubhouses, nightclubs, movie theaters, massage parlors, adult entertainment
 7 establishments, brothels, live entertainment venues, gyms and studios, and aesthetic services (i.e.
 8 beauty shops, tanning salons, wax salons).⁸

9 23. On March 24, 2020, Governor Sisolak issued COVID-19 Declaration of Emergency
 10 Directive 007, which stated that “[t]he Nevada general public shall not gather in groups of ten or
 11 more in any indoor or outdoor area,” and directing local governments to limit the general public’s
 12 use of “recreational equipment, including, without limitation, playground equipment, basketball
 13 courts, volleyball courts, baseball fields, beaches, or football fields, in a manner that causes the
 14 congregation of ten or more persons.”⁹

15 24. On November 10, 2020, Governor Sisolak once again urged all Nevadans to restrict their
 16 activities outside the home to only those essential activities for two (2) weeks, dubbed “Stay at
 17 Home 2.0.” This request is a direct result of the rising numbers of COVID-19 infections within
 18 the State. The Governor warned that, if the infection numbers do not decrease, the State will likely
 19 be subject to another mandatory shut-down.

20 25. The practical effect of the COVID-19 crisis and the State of Nevada’s response thereto
 21 has been to dramatically reduce the vehicle traffic on Nevada’s roads. With non-essential
 22 businesses and schools closed as well as the limitation on the size of gatherings and people forced
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25 ⁶ [https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18 - COVID-
 19 Declaration of Emergency Directive 002/](https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/) (last visited January 28, 2021).

26 ⁷ [https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20 - COVID-
 19 Declaration of Emergency Directive 003 \(Attachments\)/](https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Declaration_of_Emergency_Directive_003_(Attachments)/) (last visited January 28, 2021).

27 ⁸ *Id.*

28 ⁹ [https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-24 - COVID-
 19 Declaration of Emergency Directive 007 \(Attachments\)/](https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-24_-_COVID-19_Declaration_of_Emergency_Directive_007_(Attachments)/) (last visited January 28, 2021).

1 to remain at home due to the public health crisis, Nevada residents have been driving less
 2 frequently and shorter distances.

3 26. Vehicular traffic throughout Nevada has been greatly reduced during the COVID-19
 4 pandemic. For example, in April 2020, the vehicular traffic at the Nevada-California border was
 5 sixty-six percent (66%) lower than it was in April 2019. Traffic volumes decreased between sixty
 6 percent (60%) to seventy percent (70%) compared to the same time periods in 2019. These
 7 reductions have been statewide.

8 27. With fewer people driving fewer miles, there are fewer automobile accidents and,
 9 therefore, fewer automobile insurance claims. The COVID-19 pandemic has thus led to a
 10 dramatic reduction in automobile insurance claims by Nevada residents. For example, there was
 11 a sixty percent (60%) reduction in automobile accidents in Southern Nevada in March 2020 from
 12 the prior year. This significant drop in driving, collisions, and automobile insurance claims during
 13 the pandemic will almost certainly continue for the foreseeable future, and for as long as the
 14 COVID-19 crisis continues.

15 28. In particular, the COVID-19 pandemic has led to a dramatic reduction in the number of
 16 Nevada automobile insurance claims that have been submitted and will be submitted to USAA.

17 29. Insurance companies have provided varying forms of premium refunds or credits during
 18 the COVID-19 pandemic ranging from nothing at all to the 35% CHUBB provided to its insureds.
 19 These refunds or credits are arbitrary and inconsistent in amount and duration. In fact, the only
 20 consistency among the refunds or credits is that they are arbitrary and capricious, as well as
 21 insufficient to provide fair, actual, and meaningful relief to the insureds as illustrated in the
 22 following table:

Insurance Company	Quantity	Duration
Acuity	\$50 - \$100 one time refund (amount depends on the number of insured vehicles)	One time
Allstate	15% discount	2 months (April & May 2020)

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1 Farmers Insurance	25% credit for 1 month and 15% for 1 month	2 months (April & May 2020)
2 Geico	15% credit	For an entire policy, but ONLY upon insurance renewal between April 8 – Oct 7, 2020.
3 Liberty Mutual	15% refund	2 months (April & May 2020)
4 Nationwide	\$50	One time
5 Progressive	20% credit	2 months (April & May 2020)
6 State Farm	25% credit	3 months (March – May 2020)
7 Travelers	15% credit	3 months (April - June 2020)
8 USAA	20% credit for 3 months then reduced to a 10% credit for 2 months	5 months (March – July 2020)

12
13 Though each insurance provider represented to its insureds that it understood the challenges
14 individuals are facing during the COVID-19 pandemic and presented that fair refunds and credits
15 were being issued, yet, none of them offered any meaningful relief that actually reflects the
16 reduction in cars on the road and reduced driving during the pandemic.

17 **A. USAA’s Wrongdoing**

18 30. Personal insurance rates are set to cover future expected claims and expenses. Auto
19 insurers, including the Defendant USAA, develop such rates by extrapolating from recent
20 historical experience with premium payments, claims submitted, claim settlement expenses, and
21 non-claim selling and administrative expenses, and then projecting future claims and costs from
22 that data.

23 31. Under Nevada law, Defendant USAA may not charge an insurance premium that is
24 excessive.

25 32. A premium is based, in part, upon what Defendant USAA anticipates for future claims
26 payments both in severity and frequency, and premiums are calculated based upon the extent of
27 the insured’s normal driving routine.

1 33. As a result of COVID-19 restrictions, the frequency and severity of claims incurred by
2 USAA were dramatically reduced and significantly less than what was anticipated when the
3 premium was charged.

4 34. As a result of COVID-19 restrictions, USAA insureds drove significantly less than what
5 was anticipated by USAA when it developed the premium. As an example, Plaintiff’s driving
6 time and mileage has been, and continues to be, greatly reduced because of the COVID-19
7 pandemic.

8 35. As a result of COVID-19 restrictions, USAA has and will incur significantly less expenses
9 in claim payments than what was anticipated when the premium was charged.

10 36. As a result of COVID-19 restrictions, USAA has charged and collected an excessive
11 premium to its insureds in the past and into the future.

12 37. USAA is aware that it cannot charge an excessive premiums, and it has an affirmative
13 duty under the law to return any excessive premiums that were collected.

14 38. Many auto insurers have provided what the industry refers as “premium relief” to their
15 policyholders, but the so-called “relief” is actually designed to allow insurers to retain excessive
16 premiums in light of COVID-19 restrictions.

17 39. USAA knows that the premiums it charged and collected following COVID-19
18 restrictions were grossly excessive.

19 40. Specifically, in statements posted on its website (and still shown on the website as of the
20 filing of this Complaint), USAA promised its customers a one time “reduced-driving discount”
21 on their policies. USAA offered a twenty percent (20%) credit for the months of March, April,
22 and May 2020, and a ten percent (10%) credit for the months of June, and July 2020. Plaintiff,
23 and those similarly situated, have not received any other reduction from USAA even though
24 COVID-19 continues to wreak havoc in Nevada 11 months after the emergency declaration and
25 will continue for the foreseeable future.

26 41. This premium credit is inadequate such that even if the credit is applied to Plaintiff and
27 those similarly situated, the Plaintiff has paid and will continue to pay a grossly excessive
28 premium.

1 42. This premium credit is designed to allow USAA to retain a grossly excessive premium
 2 and to continue charging a grossly excessive premium into the future.

3 43. USAA has and will continue to receive a windfall as a result of, the COVID-19
 4 pandemic.

5 44. USAA, has continued to retain the excessive premium Plaintiff, and those similarly
 6 situated, have paid and will pay into the future.

VI. CLASS ACTION ALLEGATIONS

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 8 45. Plaintiff, Hunter Cain brings this action on behalf of himself and all others similarly
 9 situated, as representatives of the following proposed class: All Nevada residents who were
 10 automobile insurance policyholders of Defendant USAA as of March 1, 2020, and who have
 11 thereafter continued to be USAA automobile insurance policyholders.

12 46. Numerosity: Upon information and belief, Plaintiff alleges that the total number of Class
 13 members is dispersed across the State of Nevada. Consequently, joinder of the individual Class
 14 members would be impracticable. While the exact number of Class members is unknown to
 15 Plaintiff at this time, and can only be ascertained through appropriate discovery, Plaintiff believes
 16 that there are thousands of members in the proposed Class such that the disposition of the
 17 individual claims of the respective Class members through this Class action will benefit both the
 18 parties and this Court, and will facilitate judicial economy.

19 47. Ascertainability: The Class is ascertainable because, on information and belief, each Class
 20 member who holds a policy for automobile insurance through USAA that was active as of March
 21 1, 2020, is kept and stored in USAA’s electronic database and records.

22 48. Typicality: Plaintiff’s claims are typical of the members of the Class. The claims of
 23 Plaintiff and the members of the Class are based on the same legal theories and arise from the
 24 same conduct. As such, the claims of the Plaintiff and the Class rise and fall together and are
 25 typical of one another.

26 49. Common Questions of Fact and Law Predominate: Judicial determination of the common
 27 legal and factual issues essential to this case would be far more efficient and economical as a class
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1 action than in piecemeal individual determinations. There is no plain, speedy, or adequate remedy
2 other than by maintenance of this lawsuit as a class action because individual actions for premium
3 refunds are relatively small, making it economically infeasible for Class Members to pursue
4 remedies individually. The prosecution of separate actions by individual Members of the Class,
5 even if theoretically possible, would create a risk of inconsistent or varying adjudications with
6 respect to the individual Class Members against Defendants and would establish incompatible
7 standards of conduct for the Defendants. There are several questions of law or fact common to
8 all Class members including, but not limited to:

- 9 a. Whether each member of the proposed class was a policyholder under an existing
10 USAA automobile insurance policy as of March 1, 2020, and has since continued
11 to be a USAA policyholder;
- 12 b. Whether USAA has charged each member an excessive premium following
13 COVID-19 restrictions;
- 14 c. Whether each member of the proposed class has been offered or provided with the
15 inadequate premium reduction described in paragraph 40 above;
- 16 d. Whether the fairness and/or reasonableness of USAA’s program of premium
17 reduction, as described above, is governed by the terms of its automobile policies
18 and Nevada law;
- 19 e. Whether USAA’s offer or provision of premium reduction, as described in
20 paragraph 40 above, constitutes an unfair or deceptive act or practice;
- 21 f. Whether USAA implemented its offer of premium reduction, as described in
22 paragraph 40 above, with the expectation that others would rely upon any
23 misrepresentation, or any concealment or omission of material fact, subsumed
24 within such offer;
- 25 g. Whether USAA’s program of premium reduction, as described in paragraph 40
26 above, is unfair and/or unreasonable;

- 1 h. Whether USAA’s program of premium reduction, as described in paragraph 40
- 2 above, constitutes a breach of the implied covenant of good faith and fair dealing
- 3 contained in each of the company’s Nevada automobile insurance policies;
- 4 i. Whether USAA’s program of premium reduction, as described in paragraph 40
- 5 above, results in a violation of Nevada law; and
- 6 j. Whether USAA owes greater COVID-related premium reduction to its Nevada
- 7 automobile insurance policyholders.

8 50. Adequacy of Representation: Plaintiff is an adequate representative of the Class because
 9 his interests do not conflict with the interests of the other members of the Class. Plaintiff will
 10 fairly, adequately, and vigorously represent and protect the interests of the members of the Class
 11 and have no interests antagonistic to the members of the Class. Plaintiff has retained counsel who
 12 are competent and experienced in the prosecution of complex consumer class action litigation.
 13 Plaintiff’s attorneys have the resources, expertise, and experience to prosecute this action, and do
 14 not have knowledge of any conflicts among the members of Plaintiff’s Class, or any conflicts
 15 between the Class and Plaintiff’s attorneys.

16 51. Superiority: The class action is superior to other available methods for the fair and
 17 efficient adjudication of this controversy because: (a) the prosecution of a multitude of separate
 18 actions would be inefficient and wasteful of judicial resources; (b) the members of the Class may
 19 be scattered throughout Nevada and are not likely to be able to enforce their rights unless this
 20 action is maintained as a class action; (c) the issues raised can be more fairly and efficiently
 21 resolved in the context of a single action rather than through piecemeal litigation in the context
 22 of separate actions; (d) the resolution of litigation in a single forum will avoid the danger and
 23 resultant confusion of possible inconsistent determinations; (e) the prosecution of separate actions
 24 would create the risk of inconsistent or varying adjudications; (f) Defendants have acted and will
 25 act on grounds applicable to all Class members; (g) individual Class members’ premium refund
 26 claims are relatively small and the expense and burden of individual litigation makes it impossible
 27 for Class members to individually redress the wrongs done to them; and (h) questions of law
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1 and/or fact common to the Class, especially on issues of liability, predominate over any individual
2 question.

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4 **VII. CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **Declaratory Relief Pursuant to NRS 30.040**

7 52. Plaintiff, Hunter Cain, on behalf of himself and all others similarly situated, repeats and
8 incorporates by reference the allegations set forth in paragraphs 1 through 51 above.

9 53. USAA has charged an excessive premium following COVID-19 restrictions.

10 54. USAA's program of premium reduction, as described in paragraph 40 above, continues
11 to unlawfully deprive its Nevada automobile insurance policyholders of the full and fair COVID-
12 related premium relief to which they are entitled.

13 55. USAA's program of premium reduction, as described in paragraph 40 above, is designed
14 to secure for USAA, and has secured and will continue to secure for USAA, an unfair windfall at
15 the expense of USAA's Nevada automobile insurance policyholders.

16 56. USAA's program of premium reduction, as described in paragraph 40 above, is unlawful.

17 57. An actual controversy of a justiciable nature exists regarding the contractual relationship
18 between the Plaintiff, on behalf of himself and all others similarly situated, and USAA,
19 concerning the parties' rights and obligations with respect to USAA's program of COVID-related
20 premium reduction.

21 58. The controversy is of sufficient immediacy to justify the entry of a declaratory judgment
22 regarding the contracts between the Plaintiff, and all others similarly situated, and USAA.

23 59. An actual controversy of a justiciable nature exists regarding USAA's statutory
24 responsibilities to provide automobile insurance and to not charge excessive premiums.

25 60. An award of declaratory relief by this Court will terminate some or all the existing
26 controversy between the parties.

SECOND CAUSE OF ACTION

Breach of Contract

61. Plaintiff, Hunter Cain, on behalf of himself and all others similarly situated, repeats and incorporates by reference the allegations set forth in paragraphs 1 through 60 above.

62. Plaintiff, and Class members, each entered an insurance contract for automobile insurance with USAA.

63. The insurance contract is governed by Nevada law.

64. USAA agreed to charge a premium that was reasonable in relation to the risk and was not excessive.

65. USAA considers several factors in determining its customer’s premiums, which include driving history and vehicle usage, all to get to a fair rate based upon risk.

66. USAA is aware that the effects of the COVID-19 pandemic and restrictions materially changed the nature of the risk being insured because there was a material decrease in the claims frequency and severity.

67. In light of the change of the risk being insured, the pre-COVID-19 premium is excessive in relation to the COVID-19 risks.

68. Plaintiff, and those similarly situated, paid an excessive premium when they paid the premium USAA charged.

69. USAA breached the insurance contract when it collected an excessive premium from Plaintiff and those similarly situated.

70. As a direct result of USAA’s breach of contract, Plaintiff Hunter Cain, on behalf of himself and all others similarly situated, have been damaged as they paid an excessive premium and will continue to pay an excessive premium into the future.

71. As a direct and proximate result of the foregoing and as a result of the breach by Defendants, Plaintiff, and those similarly situated, have sustained damages in an amount exceeding Fifteen Thousand Dollars (\$15,000.00).

1 72. It has been necessary for Plaintiff to retain the services of counsel to represent him, and
2 those similarly situation, to bring this action, and Plaintiff is entitled to recovery of attorneys' fees
3 and costs incurred herein.

4 **THIRD CAUSE OF ACTION**

5 **Breach of the Covenant of Good Faith and Fair Dealing (Contract)**

6 73. Plaintiff, Hunter Cain, on behalf of himself and all others similarly situated, repeats and
7 incorporates by reference the allegations set forth in paragraphs 1 through 72 above.

8 74. Each existing automobile insurance policy USAA has issued in the State of Nevada
9 contains an implied covenant of good faith and fair dealing.

10 75. USAA owes a duty of good faith and fair dealing to Plaintiff and those similarly situated
11 to act in a manner that is faithful to the purpose and spirit of the contract.

12 76. In order to fulfill the purpose and spirit of the contract, USAA must charge a premium
13 that is reasonable in relation to the risk insured against and is not excessive.

14 77. USAA is aware that the effects of the COVID-19 pandemic and restrictions materially
15 changed the nature of the risk being insured because there was a material decrease in the claims
16 frequency and severity.

17 78. In light of the change of the risk being insured, the pre-COVID-19 premium is excessive
18 in relation to the COVID-19 risks.

19 79. Plaintiff, and those similarly situated, paid an excessive premium when they paid the
20 premium USAA charged.

21 80. USAA has deliberately contravened the intention and spirit of the contract by collecting
22 and retaining the excessive premium.

23 81. USAA breached its duty of good faith and fair dealing when it collected and collected and
24 retained an excessive premium from Plaintiff and those similarly situated.

25 82. As a direct result of USAA's breach of contract, Plaintiff Hunter Cain, on behalf of
26 himself and all others similarly situated, have been damaged as they paid an excessive premium
27 and will continue to do so into the future.

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1 83. As a direct and proximate result of the foregoing and as a result of the breach by
2 Defendants, Plaintiff, and those similarly situated, have sustained damages in an amount
3 exceeding Fifteen Thousand Dollars (\$15,000.00).

4 84. It has been necessary for Plaintiff to retain the services of counsel to represent him, and
5 those similarly situation, to bring this action, and Plaintiff is entitled to recovery of attorneys' fees
6 and costs incurred herein.

7
8 **FOURTH CAUSE OF ACTION**

9 **Bad Faith**

10 85. Plaintiff, Hunter Cain, on behalf of himself and all others similarly situated, repeats and
11 incorporates by reference the allegations set forth in paragraphs 1 through 84 above.

12 86. USAA owes a duty of good faith and fair dealing to Plaintiff, and all others similarly
13 situated insureds, and the duty is imposed by law.

14 87. As part of its duty of good faith and fair dealing, USAA has a fiduciary-like relationship
15 to Plaintiff and all other similarly situated insureds.

16 88. Under the law, Plaintiff, and all those similarly situated insureds, have the right to expect
17 trust and confidence in the integrity and fidelity of USAA.

18 89. USAA contracted with Plaintiff, and all those similarly situated, to provide protection,
19 peace of mind, and security as it relates to their automobile insurance.

20 90. As set forth herein, USAA, as part of its fiduciary-like duties, cannot charge or retain an
21 excessive premium.

22 91. USAA has breached its duty of good faith and fair dealing by charging and collecting
23 from Plaintiff, and all those similarly situated, an excessive premium.

24 92. USAA has acted unreasonably with knowledge there is no unreasonable basis for its
25 conduct.

26 93. USAA represented to its customers, including Plaintiff, and all those similarly situated,
27 that it was taking measures to reduce costs to Plaintiff, and all those similarly situated, during the
28 COVID-19 crisis.

1 94. USAA misrepresented the nature of any relief it may offer to its customers, including
2 Plaintiff, and all those similarly situated.

3 95. USAA offered a twenty percent (20%) credit for the months of March, April, and May
4 2020, and a ten percent (10%) credit for the months of June, and July 2020. Plaintiff, and those
5 similarly situated, have not received any other reduction from USAA even though COVID-19
6 continues to wreak havoc in Nevada 11 months after the emergency declaration and will continue
7 for the foreseeable future.

8 96. This credit is insufficient particularly where driving in the State has declined between
9 forty percent (40%) and seventy percent (70%) depending on the week.

10 97. In so doing, USAA is taking advantage of its insureds, including Plaintiff and those
11 similarly situated, by continuing to collect and charge excessive premiums despite the greatly
12 reduced risk and enjoying substantial profits as a result.

13 98. USAA has acted in bad faith in breaching the fiduciary responsibility it owes to Plaintiff
14 and all those similarly situated.

15 99. USAA's actions were not keeping with the relationship of trust and confidence with its
16 insureds, including Plaintiff and all those similarly situated.

17 100. As a direct and proximate result of the foregoing and as a result of the breach by
18 Defendants, Plaintiff, and those similarly situated, have sustained damages as they have paid and
19 will continue to pay into the future in an amount exceeding Fifteen Thousand Dollars
20 (\$15,000.00).

21 101. Defendant made intentional misrepresentations to its insureds and acted with
22 conscious disregard to the rights of its insureds thus entitling Plaintiff, and all those similarly
23 situated, to an award of punitive damages.

24 102. It has been necessary for Plaintiff to retain the services of counsel to represent him,
25 and those similarly situation, to bring this action, and Plaintiff is entitled to recovery of attorneys'
26 fees and costs incurred herein.

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FIFTH CAUSE OF ACTION

Violation of Nevada’s Deceptive Trade Practices Act (NRS §§ 598.0903 to 598.0999)

103. Plaintiff, Hunter Cain, on behalf of himself and all others similarly situated, repeats, and incorporates by reference the allegations set forth in paragraphs 1 through 102 above.

104. At all times relevant herein, Defendants violated the Nevada Deceptive Trade Practices Act, §§ 598.0903 to 598.0999, by representing to its automobile insurance policyholders that they will receive premium rates based upon risk factors, offering an inadequate premium reduction in light of the COVID-19 pandemic, and failing to take into consideration the ongoing decrease in risk due to the decreased volume of vehicle traffic on all roads throughout Nevada.

105. Defendants made false or misleading statements of fact concerning the price and cost of their automobile insurance policies, as set forth above, in violation of NRS 598.0915(13) and otherwise knowingly made false representations in their communications with automobile insurance policyholders regarding the COVID-19 premium reduction described above.

106. In making its offer of premium reduction, USAA represented to its Nevada automobile insurance policyholders (implicitly, if not explicitly) that such offer is fair and reasonable, when in fact it is neither.

107. In making its offer of premium reduction, USAA concealed from its Nevada automobile insurance policyholders, or omitted to share with such policyholders, the inadequacy and unfairness of that offer. USAA engaged in such conduct with the intent that others rely upon such concealment and/or omission.

108. In making its offer of premium reduction, USAA expressly represented to its Nevada automobile insurance policyholders that it understood the “stress many members and their families are experiencing during these changing times” and that “USAA’s commitment to the military community and supporting members.” This was a misrepresentation of USAA’s intent as the premium credit was only provided for three months even though Governor Sisolak’s March 12, 2020 emergency declaration has been ongoing for 11 months, and may continue for several months.

1 109. As a direct result of USAA’s conduct, Plaintiff Hunter Cain, on behalf of himself
2 and all others similarly situated, have been deprived of fair and adequate premiums as well as
3 COVID-related premium reduction to which they are fairly and lawfully entitled.

4 110. As a direct and proximate result of the foregoing and as a result of the breach by
5 Defendants, Plaintiff, and those similarly situated, have sustained damages in an amount
6 exceeding Fifteen Thousand Dollars (\$15,000.00).

7 111. Defendant made intentional misrepresentations to its insureds and acted with
8 conscious disregard to the rights of its insureds thus entitling Plaintiff, and all those similarly
9 situated, to an award of punitive damages.

10 112. It has been necessary for Plaintiff to retain the services of counsel to represent him,
11 and those similarly situation, to bring this action, and Plaintiff is entitled to recovery attorneys’
12 fees and costs incurred herein.

13 **VIII. PRAYER FOR RELIEF**

14 **WHEREFORE**, Plaintiff, and those similarly situated, pray for relief and damages as
15 follows, that the court:

- 16 A. Determine this action is a proper class action and appoint Plaintiff’s representatives
- 17 of the Class under Rule 23 of the Nevada Rules of Civil Procedure;
- 18 B. Declare the parties’ rights, duties, status, or other legal relations;
- 19 C. Enter the judicial declarations sought by this complaint;
- 20 D. Award compensatory damages to Plaintiff, and all others similarly situated, for
- 21 USAA’s wrongful conduct detailed above;
- 22 E. Award punitive damages;
- 23 F. Award to Plaintiff, and all others similarly situated, all attorneys’ fees and costs; and

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G. Award such other and further relief as this Court deems just and appropriate.
DATED this 23rd day of February, 2021.

EGLET ADAMS

MATTHEW L. SHARP, LTD.



/s/ Matthew L. Sharp

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