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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

JOHN LYONS,

Plaintiff,

v.

USAA CASUALTY INSURANCE
COMPANY,

Defendant.

No.

COMPLAINT FOR BREACH OF
CONTRACT, FAILURE TO ACT IN
GOOD FAITH, VIOLATION OF
CONSUMER PROTECTION ACT,
INJUNCTIVE RELIEF

AND

DEMAND FOR JURY TRIAL

I. PARTIES

1. John Lyons was at all relevant times an insured of defendant USAA Casualty Insurance Company (“USAA”). Plaintiff resides in Thurston County.

2. Defendant USAA is a foreign insurer authorized to conduct business in Washington. Upon information and belief, USAA has its principal place of business in Texas.

3. Defendant is vicariously liable for the acts and omissions of its employees and agents, including any outside person or entity to whom defendant assigned claims-handling or investigative responsibilities.

1 15. The policy issued by defendant covers all losses incurred by plaintiff resulting
2 from the loss. The policy also promises other benefits, including additional living expense
3 (“ALE”).

4 16. USAA has failed to pay the cost to repair the home to its pre-loss condition.

5 17. USAA has failed to pay the ALE that would allow Lyons to maintain his
6 standard of living while the home is restored to its pre-loss condition.

7 18. USAA failed to explain to plaintiff his rights and benefits under the policy.

8 19. USAA failed to timely communicate with plaintiff.

9 20. USAA delayed and failed to conduct a timely claim investigation, which
10 compounded the damage.

11 21. USAA’s failure to live up to its obligations under the policy and its obligations
12 under industry standards and the Washington Administrative Code Fair Claims Practices
13 Regulations have caused plaintiff severe emotional strain and stress.

14 22. Plaintiff’s home remains unrepaired.

15 23. Plaintiff’s claim has yet to be resolved.

16 24. Defendant failed to perform a full and fair investigation of the claim and has
17 denied the benefits to which plaintiff is entitled under the Policy. Defendant failed to perform a
18 reasonable investigation of plaintiff’s claim, and as a result defendant has failed to pay most of
19 the benefits owed under the policy. Defendant’s handling of the claim compelled plaintiff to
20 initiate an appraisal—at significant expense to plaintiff—to obtain the benefits to which he is
21 entitled.
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1 25. The appraisal was awarded to the plaintiff on or about May 24, 2022, in the
2 amounts of \$349,422.34 (RCV) / \$322,018.38 (ACV) on the structure and \$325,945.85 for ALE
3 benefits.

4 26. USAA has not paid the appraisal awards.

5 27. Insurance companies such as defendant owe their policyholders numerous duties
6 upon the occurrence of a loss under an insurance policy. For example:

- 7 • Insurance companies owe their policyholders a duty of good faith.
- 8 • Insurance companies have an obligation to tell the truth, to have a lawful
9 purpose, to deal fairly with the policyholder, and to give equal consideration to
10 policyholders' interests as they do their own.
- 11 • Insurance companies are prohibited from engaging in conduct toward their
12 policyholders that is in any way unreasonable, frivolous, or unfounded.
- 13 • Insurance companies must conduct a full, fair, and prompt investigation of all
14 material aspects of the insurance claim at their own expense.

15 28. The Unfair Claims Settlement Practices Regulation, which is found in chapter
16 284-30 of the Washington Administrative Code, imposes duties on insurance companies.
17 Defendant owes those duties to plaintiff. The Unfair Claims Settlement Practices Regulation is
18 incorporated herein by reference. *See* WAC 284-30-330 to -380.

19 29. Insurance industry standards in the State of Washington require defendant to
20 comply with the Unfair Claim Settlement Practices Regulation. The regulation reflects
21 minimum industry standards.

22 30. Insurance companies are prohibited by industry standards and Washington
23 Administrative Code Regulations (*see* WAC 284-30-330 to -380) from:

- 24 • Misrepresenting facts and policy provisions.
- 25 • Failing to acknowledge and act reasonably promptly upon communications with
respect to claims arising under insurance policies.

- 1 • Failing to adopt and implement reasonable standards for the prompt investigation
2 of claims.
- 3 • Failing to advise insured of what is necessary to complete the claim.
- 4 • Failing to assist the insured.
- 5 • Refusing to pay claims without a reasonable investigation.
- 6 • Compelling first party claimants to initiate litigation by offering substantially less
7 than the amounts due under policies.
- 8 • Failing to promptly settle claims where liability has become reasonably clear.
- 9 • Failing to promptly provide a reasonable explanation of the basis in the insurance
10 policy in relation to the facts or applicable law for the denial of the claim.
- 11 • Failing to disclose all rights and benefits under an insurance policy to the
12 insured.
- 13 • Failing to provide an explanation of the coverage under which payments were
14 made.
- 15 • Attempting to transfer the cost of investigation to the insured.
- 16 • Failing to complete a full and fair investigation within 30 days.
- 17 • Insurance companies are responsible for the accuracy of evaluations to determine
18 actual cash value.
- 19 • Treating policyholders different because they are represented by a public
20 adjuster.

21 31. To ensure compliance with legal and industry standards:

- 22 • insurance companies have a responsibility to properly train employees involved
23 in claims-handling activity; and
- 24 • insurance companies have a responsibility to supervise, evaluate, investigate, and
25 (when necessary) discipline or terminate claims handlers who fall short of legal,
industry, or company standards.

32. Defendant violated all the above standards and Washington Administrative Code

Regulations.

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1 36. Defendant is liable for reasonable attorney fees and costs under *Olympic*
2 *Steamship Co. v. Centennial Insurance Co.*, 117 Wn.2d 37, 51-53, 811 P.2d 673 (1991),
3 *McGreevy v. Oregon Mutual Insurance Co.*, 128 Wn.2d 26, 37, 904 P.2d 731 (1995).

4
5 **CLAIM NO. 2. BREACH OF CONTRACT**

6 37. Plaintiff incorporates all the preceding paragraphs as if fully set forth herein.

7 38. The policy is a valid, enforceable contract.

8 39. Plaintiff is entitled to full compliance with the policy.

9 40. Plaintiff is entitled to coverage and every benefit available to him under the
10 policy.

11 41. Plaintiff seeks judgment with respect to all coverages and benefits that apply to
12 the facts of this case, including benefits for multiple losses.

13 42. Defendant breached its obligations under the policy as alleged throughout this
14 Complaint.

15 43. Plaintiff has sustained damage in an amount to be proven at trial.

16 44. In addition to plaintiff's damages, defendant is liable for reasonable attorney fees
17 and costs under *Olympic Steamship Co. v. Centennial Insurance Co.*, 117 Wn.2d 37, 51-53, 811
18 P.2d 673 (1991).

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20 **CLAIM NO. 3. VIOLATION OF DUTY OF GOOD FAITH**

21 45. Plaintiff incorporates all the preceding paragraphs as if fully set forth herein.

22 46. Defendant violated its duty of good faith.

23 47. Defendant's conduct as alleged throughout this Complaint was unreasonable and
24 in bad faith.

1 48. Defendant is in violation of the Unfair Claim Settlement Practices Regulation.

2 49. Defendant is in violation of industry standards for the handling of insurance
3 claims.

4 50. Plaintiff sustained damage as a result of defendant’s conduct.

5 51. Defendant is liable for plaintiff’s consequential economic and noneconomic
6 damages in addition to reasonable attorney fees and costs under *McGreevy v. Oregon Mutual*
7 *Insurance Co.*, 128 Wn.2d 26, 37, 904 P.2d 731 (1995).

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9 **CLAIM NO. 4. NEGLIGENT CLAIMS HANDLING**

10 52. Plaintiff incorporates all the preceding paragraphs as if fully set forth herein.

11 53. Defendant’s handling of the insurance claim was unreasonable.

12 54. Defendant is in violation of the Unfair Claim Settlement Practices Regulation.

13 55. Defendant is in violation of industry standards for the handling of insurance
14 claims.

15 56. Plaintiff sustained damage as a result of defendant’s conduct.

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17 **CLAIM NO. 5. CONSUMER PROTECTION ACT (“CPA”), RCW 19.86.090**

18 57. Plaintiff incorporates all the preceding paragraphs as if fully set forth herein.

19 58. As alleged throughout this Complaint, defendant engaged in unfair or deceptive
20 acts or practices.

21 59. Defendant’s conduct occurred in trade or commerce.

22 60. Defendant is in violation of the Unfair Claims Settlement Practices Regulation.

23 61. Defendant acted in bad faith.

24 62. Defendant’s conduct affected the public interest.

25

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- Enter a declaratory judgment as stated;
- Enter a money judgment against defendant in the amount we will prove;
- Enter an injunction as stated;
- Award enhanced damages pursuant to RCW 19.86.090;
- Award costs, disbursements, and attorney fees to the maximum extent authorized by law, including *Olympic Steamship Co. v. Centennial Insurance Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991), RCW 19.86.090, and for defendant’s failure to act in good faith;
- Otherwise award plaintiff’s attorney fees and costs; and
- Award such other relief as is just and proper.

VI. JURY DEMAND

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

RESPECTFULLY SUBMITTED June 24, 2022.

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