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and the putative class.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

Jessica Day, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

GEICO CASUALTY COMPANY,
GEICO INDEMNITY COMPANY, and
GEICO GENERAL INSURANCE
COMPANY,

Defendants.

Case No.: 5:21-cv-02103-BLF

**AMENDED CLASS ACTION
COMPLAINT**

DEMAND FOR JURY TRIAL

(1) Breach of Contract

(2) Unjust Enrichment

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

1 **AMENDED CLASS ACTION COMPLAINT**

2 Plaintiff Jessica Day (“Plaintiff”), by and through her attorneys and on behalf of herself
3 and all others similarly situated, hereby submits this Amended Class Action Complaint against
4 Defendants GEICO Casualty Company, GEICO Indemnity Company, and GEICO General
5 Insurance Company (“GEICO” or “Defendants”), and alleges as follows:

6 **PRELIMINARY STATEMENT**

7 1. This case is filed to end GEICO’s practice of unfairly profiting from the global
8 COVID-19 pandemic. As of the date of this filing, the United States has confirmed over 28
9 million coronavirus cases. The State of California alone has over 3.5 million confirmed cases.

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

14 3. While many companies, industries, and individuals have suffered financially as
15 a result of the COVID-19 pandemic, auto insurers like GEICO have scored a windfall. Not
16 surprisingly, as a result of state-wide social distancing and stay-at-home measures, there has
17 been a dramatic reduction in driving, and an attendant reduction in driving-related accidents.
18 This decrease in driving and accidents has significantly reduced the number of claims that auto
19 insurers like GEICO have paid, resulting in a drastic and unfair increase in GEICO’s profits at
20 the expense of its customers. According to its parent company, Berkshire Hathaway, GEICO
21 reported pretax earnings of \$3.428 billion in 2020. That is more than double GEICO’s earnings
22 over the same period in 2019.

23 4. One published report calculates, very conservatively, that at least a 30% average
24 refund of paid premiums would be required to make up for the excess amounts paid by
25 consumers for just the period between mid-March and the end of April of 2020. Despite full
26 knowledge of these facts, GEICO has failed to issue refunds. The company’s short-lived
27 “GEICO Giveback” program was woefully inadequate to compensate its customers for
28 overpayments resulting from COVID-19. The program applied a 15% discount on new and

1 renewal auto insurance policies from April to October 2020. But it did not apply any discount
2 to the premiums that customers already paid and continued to pay on policies already existing
3 at the start of the COVID-19 pandemic. And even with respect to new and renewal policies, the
4 15% credit fell well short of what has been very conservatively estimated as an adequate
5 refund. Despite the inadequacy of its refund program, GEICO falsely advertised to consumers
6 that it was “passing [its COVID-related] savings on” to its customers.

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

11 **JURISDICTION**

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

15 **VENUE**

16 7. Venue is proper in the Northern District of California under 28 U.S.C. § 1391
17 because Defendants reside in this district, and because a substantial part of the events or
18 omissions giving rise to the claims occurred in this district.

19 **INTRADISTRICT ASSIGNMENT**

20 8. Pursuant to Civil L.R. 3-2(c) and (e), and 3-5(b), this action is properly assigned
21 to the San Jose Division of the Northern District of California because a substantial portion of
22 the events or omissions giving rise to the dispute occurred in Monterey County.

23 **PARTIES**

24 **Defendants**

25 9. Defendants GEICO Casualty Company, GEICO Indemnity Company, and
26 GEICO General Insurance Company are Maryland corporations owned by GEICO
27 Corporation. Defendants are all headquartered in Chevy Chase, Maryland, and operate under
28 CEO Todd Combs.

1 10. Defendants sell personal automobile insurance in states around the country,
2 including California. Defendant GEICO General Insurance Company writes preferred-risk
3 private passenger automobile insurance for drivers who are not government employees or
4 military personnel; Defendant GEICO Indemnity Company writes primarily private passenger
5 automobile and motorcycle insurance; and Defendant GEICO Casualty Company also writes
6 primarily private passenger automobile insurance.

7 11. Defendants and other affiliated GEICO entities “market insurance as GEICO,”
8 and “[s]ubstantially all of the insurance operations of these companies are performed by” the
9 same GEICO entity, named Government Employees Insurance Company.¹

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

14 13. In April 2020, GEICO announced the “GEICO Giveback” program at issue in
15 this lawsuit. The Giveback was uniformly developed by GEICO and was applied in identical
16 fashion by each of the Defendants. Indeed, Defendants submitted a joint memorandum to the
17 California Department of Insurance explaining the uniform terms and application of the GEICO
18 Giveback.² Defendants have each applied the GEICO Giveback program and the unfair
19 practices at issue to California policyholders during the relevant time period.³

20 _____
21 ¹ “Government Employees Insurance Company Statutory Financial Statements as of and for the
22 Years Ended December 31, 2020 and 2019, Supplemental Schedules,” California Department
23 of Insurance,
[https://interactive.web.insurance.ca.gov/sdrive/companyprofile/2020/propertyAndCasualty/ann](https://interactive.web.insurance.ca.gov/sdrive/companyprofile/2020/propertyAndCasualty/annual/22063.2020.P.AN.PF.O.J.4177661.pdf)
24 [ual/22063.2020.P.AN.PF.O.J.4177661.pdf](https://interactive.web.insurance.ca.gov/sdrive/companyprofile/2020/propertyAndCasualty/annual/22063.2020.P.AN.PF.O.J.4177661.pdf) (last visited Feb. 8, 2022).

25 ² See “CA COVID-19 Premium Refund Report Submissions - Company F to H,” California
26 Department of Insurance, at “GEICO Grp - Group# 31 - Bulletin 2020-3 Explanatory Memo,”
[http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2020-3-submissions/indexF2H.cfm?orderBy_315618=TITLE%7Casc&iPage_315618=4&FilterByLetter_315618=&itemid_315618=2)
27 [forms/2020/2020-3-](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2020-3-submissions/indexF2H.cfm?orderBy_315618=TITLE%7Casc&iPage_315618=4&FilterByLetter_315618=&itemid_315618=2)
28 [submissions/indexF2H.cfm?orderBy_315618=TITLE%7Casc&iPage_315618=4&FilterByLett](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2020-3-submissions/indexF2H.cfm?orderBy_315618=TITLE%7Casc&iPage_315618=4&FilterByLetter_315618=&itemid_315618=2)
[er_315618=&itemid_315618=2](http://www.insurance.ca.gov/0250-insurers/0300-insurers/0100-applications/rsb-forms/2020/2020-3-submissions/indexF2H.cfm?orderBy_315618=TITLE%7Casc&iPage_315618=4&FilterByLetter_315618=&itemid_315618=2) (last visited Feb. 8, 2022).

³ See *id.* at worksheets for “GEICO Gen Ins Co - NAIC# 35882,” “GEICO Ind Co - NAIC# 22055,” and “GEICO Cas Co - NAIC# 41491.”

1 **Plaintiff**

2 14. Plaintiff is an adult resident of Salinas, California. Plaintiff held personal auto
3 insurance policies purchased from GEICO General Insurance Company during the time period
4 relevant to this lawsuit. As described in more detail herein, as a result of the global COVID-19
5 pandemic and corresponding drop in automobile use and traffic, the credit given by GEICO is
6 wholly inadequate to compensate Plaintiff for her overpayments.

7 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

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

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

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

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

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

21 19. On March 19, 2020, Governor Newsom instituted a statewide stay-at-home
22 order,⁴ making California among the first states to establish such an order. With some
23 exceptions, the order mandated “all individuals living in the State of California to stay home.”⁵

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27 ⁴ Executive Order N-33-20 (Mar. 19, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>.

28 ⁵ *Id.* ¶ 1.

1 20. In the time since Governor Newsom first instituted the stay-at-home order,
2 California’s progress toward reopening has been halting, and additional stay-at-home orders
3 have been imposed in response to the spread of COVID cases.

4 **B. GEICO Has Obtained a Windfall Due to the Dramatic Decrease in Automobile**
5 **Use and Traffic Caused by COVID-19**

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

14 22. Beginning in mid-March of 2020, the number of miles driven by individuals has
15 dropped dramatically because of COVID-19. This includes the State of California. Through the
16 use of cell phone location data, it has been reported that vehicle miles traveled in California
17 dropped significantly from their January 2020 average in March and April of 2020:⁷

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

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26 ⁶ See Center for Economic Justice & Consumer Federation of America, Personal Auto
Insurance Premium Relief in the COVID-19 Era at 5 (May 7, 2020) (“CEJ/CFA Report”),
27 [https://consumerfed.org/wp-content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-
Update-Report-5-7-20.pdf](https://consumerfed.org/wp-content/uploads/2020/05/Auto-Insurance-Refunds-COVID-19-Update-Report-5-7-20.pdf).

28 ⁷ See *id.* at 6-8.

1 Upon information and belief, decreases in pre-COVID miles traveled continued through the
2 end of 2020, and will continue for the foreseeable future.⁸

3 23. Automobile accidents have also decreased. According to the Road Ecology
4 Center at the University of California, Davis, traffic collisions, including those involving
5 injuries or fatalities, dropped by roughly half after California instituted its stay-at-home order.⁹

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

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

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23 ⁸ *See id.* at 2; *see also* Center for Economic Justice & Consumer Federation of America, Auto
24 Insurance Refunds Needed as New Data Show Crashes Remain Well Below Normal Due to
25 Pandemic (Dec. 22, 2020), [https://consumerfed.org/press_release/auto-insurance-refunds-
26 needed-as-new-data-show-crashes-remain-well-below-normal-due-to-pandemic-23-fewer-
27 accidents-in-september-and-october/](https://consumerfed.org/press_release/auto-insurance-refunds-needed-as-new-data-show-crashes-remain-well-below-normal-due-to-pandemic-23-fewer-accidents-in-september-and-october/).

28 ⁹ Fraser Shilling and David Waetjen, *Special Report: Impact of COVID19 Mitigation on
Numbers and Costs of California Traffic Crashes*, Road Ecology Center, UC Davis, Apr. 1,
2020 (updated Apr. 15, 2020),
[https://roadeology.ucdavis.edu/files/content/projects/COVID_CHIPs_Impacts_updated_415.p
df](https://roadeology.ucdavis.edu/files/content/projects/COVID_CHIPs_Impacts_updated_415.pdf).

¹⁰ CEJ/CFA Report, *supra*, at 4.

1 25. The excessive premiums collected and not refunded by GEICO during the
2 COVID-19 pandemic have led to a substantial windfall in profits. According to its parent
3 company, Berkshire Hathaway, GEICO reported pretax earnings of \$ \$3.428 billion in 2020.
4 That is more than double GEICO's earnings over the same period in 2019.

5 **C. GEICO Has Failed to Give Adequate Refunds to Plaintiff and Other Policyholders**
6 **in California**

7 26. According to conservative calculations by the Center for Economic Justice and
8 the Consumer Federation of America based on motor vehicle accident data, at least a 30%
9 minimum average premium refund to consumers would be required to correct the unfair
10 windfall to auto insurance companies, including GEICO, just for the time period from mid-
11 March through the end of April 2020.¹¹

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

16 28. In spring 2020, GEICO announced the "GEICO Giveback." Under the program,
17 GEICO gave customers a 15% credit on their personal auto insurance premiums, but only if
18 they are new customers, or existing customers who renew their policy during the applicable
19 time period. Specifically, the credit was given for six-month policies renewed or newly
20 purchased for the period April 8, 2020 to October 8, 2020, and twelve-month policies renewed
21 or newly purchased for the period April 8, 2020 to April 7, 2021. According to GEICO's
22 website, the program has now ended.

23 29. GEICO's credit program is inadequate to compensate its customers for the
24 unfair windfall the company has gained as a result of COVID-19. For existing customers who
25 renewed their policies, the credit does not apply at all to premiums that the customer paid on
26 their previous policies. And even with respect to new and renewal policies, the 15% credit is

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28 ¹¹ CEJ/CFA Report, *supra*, at 12-13.

1 nowhere near the minimum 30% average refund benchmark that has been conservatively
2 estimated as an adequate refund for just the first the first two months of the pandemic.

3 30. With full knowledge that its program was inadequate, GEICO falsely claimed to
4 its customers that it was in fact providing substantial and full relief. For example, on its
5 website, GEICO falsely claimed that “shelter in place laws have reduced driving, and we are
6 passing these savings on to our auto, motorcycle, and RV customers.” Further, GEICO failed to
7 disclose in this and other advertising the fact that the “GEICO Giveback” did not, in fact, pass
8 the company’s savings on to its customers; the fact and amount of its excessive profits caused
9 by COVID-19; and the fact that its premiums are not based on an accurate assessment of risk
10 during COVID-19.

11 31. Not surprisingly, GEICO’s refund program was met with immediate criticism.
12 On April 13, 2020, the Consumer Federation of America gave GEICO’s program a “D-” grade,
13 which placed GEICO at or near the bottom of insurers receiving grades.¹² The CEJ/CFA report
14 explained that GEICO’s program “fails to match the relief to the relevant premium and policy,”
15 “doesn’t provide relief for current policyholders,” “fails to credit consumers for the current
16 premium that has become excessive,” and is “wrongly attempting to take credit for future – and
17 in most cases distant future – rate reductions as if it were actually providing relief today to
18 current policyholders.”¹³

19 32. In early February 2020, Plaintiff purchased a renewal auto insurance policy from
20 GEICO for the period beginning on February 11, 2020 and ending on August 9, 2020. Plaintiff
21 renewed again for the period beginning on August 10, 2020 and ending on February 10, 2021.
22 Premiums were \$871.20. With a “GEICO Giveback credit” of \$130.68, Plaintiff paid \$740.52
23 in premiums for that policy.

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25 _____
26 ¹² *Report Card to Date on the \$6.5 Billion+ Promised To Auto Insurance Customers as People*
27 *Drive Less Due To COVID-19*, Consumer Federation of America (April 4, 2020),
https://consumerfed.org/press_release/report-card-to-date-on-the-6-5-billion-promised-to-auto-insurance-customers-as-people-drive-less-due-to-covid-19/.

28 ¹³ CEJ/CFA Report, *supra*, at 16.

1 33. During the time that Plaintiff was considering renewing her policy with GEICO,
2 Plaintiff received advertisements, emails, and other information from GEICO representatives
3 concerning the “Giveback.” Plaintiff renewed her policy and did not cancel her policy with
4 GEICO based on GEICO’s failure to disclose to its customers the fact that the “GEICO
5 Giveback” did not, in fact, pass the company’s savings on to its customers; the fact and amount
6 of its excessive profits caused by COVID-19; and the fact that its premiums are not based on an
7 accurate assessment of risk during COVID-19. Had GEICO disclosed these facts, Plaintiff
8 would not have renewed her GEICO policy in the summer of 2020.

9 34. Under its insurance policies, including the policies of Plaintiff and the
10 members of the putative class, GEICO has the discretion to make voluntary downward
11 premium adjustments based on an insured’s changed circumstances.

12 35. GEICO improperly exercised that discretion by failing to issue refunds of the
13 now-excessive premiums during changed circumstances, when it should have instead used its
14 discretion, in good faith, to make appropriate adjustments.

15 36. Plaintiff’s policies described above were in effect during the time period
16 during which most of the United States, including California, was significantly impacted by
17 the global COVID-19 pandemic and during which stay-at-home orders, along with other
18 measures and conditions, caused a widespread and dramatic decrease in automobile use and
19 traffic. Despite this, GEICO only gave Plaintiff an inadequate 15% credit on her August 2020
20 renewal policy and no refund or credit for Plaintiff’s previous six-month policy.

21 37. In 1988, California voters approved Proposition 103 to further establish the
22 public policy of the state and to “protect consumers from arbitrary insurance . . . practices, to
23 encourage a competitive insurance marketplace . . . and to ensure that insurance is fair,
24 available, and affordable to all Californians.” The people of the state declared with Proposition
25 103 that “[t]his law shall be liberally construed and applied in order to fully promote its
26 underlying purposes”

27 38. GEICO’s collection and/or retention of such excessive premiums violates
28 California public policy and contravenes Proposition 103’s mandate to protect consumers from

1 arbitrary insurance practices, to encourage a competitive insurance marketplace, and to ensure
2 that insurance is fair, available, and affordable for all Californians.

3 39. Upon information and belief, thousands of other policyholders in California
4 have been injured by GEICO's policy and practice of failing to provide adequate refunds to
5 policyholders due to the COVID-19 pandemic.

6 40. Plaintiff and the members of the putative class were unable to reasonably avoid
7 these harms because the analysis required to determine premium refunds was within the
8 exclusive knowledge of GEICO.

9 41. Upon information and belief, thousands of other policyholders in California
10 have been injured by GEICO's policy and practice of failing to provide adequate refunds to
11 policyholders due to the COVID-19 pandemic.

12 **CLASS ACTION ALLEGATIONS**

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

15 43. The proposed class is defined as follows: All California residents who purchased
16 personal automobile, motorcycle, or RV insurance from GEICO covering any portion of the
17 time period from March 1, 2020 to the present.

18 44. The members of the class are so numerous that joinder of all members is
19 impracticable. While the precise number of class members has not been determined at this time,
20 upon information and belief, there are thousands of individuals in the class. The identities of
21 the class members can be determined from GEICO's records.

22 45. There are questions of law and fact common to the class that predominate over
23 questions solely affecting individual members.

- 24 46. The common questions of law and fact include, but are not limited to:
- 25 a. Whether GEICO has a common policy or practice of failing to provide
 - 26 adequate refunds to policyholders due to the COVID-19 pandemic;
 - 27 b. Whether GEICO's refund program is inadequate;
 - 28 c. Whether GEICO violated the covenant of good faith and fair dealing;

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

9 47. The questions of law and fact listed above will yield common answers for
10 Plaintiff and the class as to whether GEICO is liable for the alleged legal violations.

11 48. Plaintiff's claims are typical of those of the members of the class. Plaintiff, like
12 other class members, was subject to the unlawful practices described herein.

13 49. Plaintiff will fairly and adequately protect the interests of the class and has
14 retained counsel experienced in complex class action litigation.

15 50. Class treatment is appropriate under Fed. R. Civ. P. 23(b)(2) because GEICO
16 has acted on grounds that apply generally to the class, so that final injunctive relief or
17 corresponding declaratory relief is appropriate with respect to the class.

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

1 which insurers are held due to the special relationship existing between insurer and insured,
2 which is characterized by elements of public interest, adhesion, and fiduciary responsibility.

3 61. Plaintiff and the members of the putative class have been injured as a direct and
4 proximate result of GEICO's unlawful conduct.

5 **COUNT II¹⁴**

6 **Unjust Enrichment/Quasi-Contract**

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

8 62. Plaintiff pleads this Count in the alternative to her other Counts herein.

9 63. As a result of GEICO's failure to provide adequate refunds to its customers as
10 described herein, GEICO has been unjustly enriched.

11 64. GEICO was enriched under circumstances that it cannot conscientiously retain
12 its gain at Plaintiff's and the putative class's expense.

13 65. Plaintiff and the members of the putative class have been injured as a direct and
14 proximate result of GEICO's unlawful conduct.

15 **COUNT III**

16 **Violation the California Unfair Competition Law ("UCL")**

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

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

19 66. Plaintiff restates and incorporates by reference the above paragraphs as if fully
20 set forth herein.

21 67. Plaintiff and GEICO are "persons" within the meaning of the UCL. Cal. Bus. &
22 Prof. Code § 17201.

23 68. The UCL defines unfair competition to include any "unlawful, unfair, or
24 fraudulent business act or practice." Cal. Bus. & Prof. Code § 17200.

25 69. By committing the acts and practices alleged herein, GEICO has engaged in
26 unfair business acts and practices in violation of the UCL.

27
28 ¹⁴ The Court has dismissed Plaintiff's unjust enrichment claim. (ECF No. 64 at 13.)

1 70. A business act or practice is “unfair” under the UCL if it offends an established
2 public policy or is immoral, unethical, oppressive, unscrupulous or substantially injurious to
3 consumers, and that unfairness is determined by weighing the reasons, justifications and
4 motives of the practice against the gravity of the harm to the alleged victims. GEICO has
5 violated the UCL’s proscription against unfair business practices by, among other things:

- 6 a. failing to fully refund premiums with full knowledge of the amount and
7 extent of their excess and the fact that they are not based on an accurate
8 assessment of risk;
- 9 b. failing to refund premiums to the consumers who initially paid those
10 premiums, and instead giving a credit only for new or renewal business,
11 thereby intentionally using the global COVID-19 pandemic as a means to
12 gain new business and obtain unfair economic advantage;
- 13 c. falsely claiming to its customers that it is providing substantial and full relief
14 through its “Giveback” program and failing to disclose that the program
15 does not, in fact, provide full relief; and
- 16 d. failing to disclose the fact that it is earning excessive profits, or the amount
17 of those profits.

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

22 72. There were reasonably available alternatives to further GEICO’s legitimate
23 business interests, other than the conduct described herein.

24 73. Plaintiff and the members of the putative class paid premiums to GEICO and did
25 not have those premiums refunded, and they purchased, renewed, and did not cancel their
26 policies, as a result of GEICO’s unfair conduct.

27 74. The injury caused by GEICO’s failure to provide adequate refunds is substantial
28 in light of very conservative calculations that a 30% minimum average premium refund to

1 would be required to correct the unfair windfall just for the time period from mid-March
2 through the end of April 2020.

3 75. Plaintiff and the members of the putative class have been injured as a direct and
4 proximate result of GEICO's conduct in violation of UCL.

5 76. Through its practices, GEICO has improperly obtained and continues to
6 improperly obtain and retain money from Plaintiff and the members of the putative class.

7 77. Plaintiff therefore requests that this Court grant the relief enumerated below.
8 Otherwise, Plaintiff and the members of the putative class may be irreparably harmed and/or
9 denied an effective and complete remedy.

10 **PRAYER FOR RELIEF**

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

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

1 I. Such further relief as may be appropriate.

2 **DEMAND FOR JURY TRIAL**

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

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5 Dated: February 10, 2022

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**Pro hac vice application forthcoming*

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