



22752468

1 DAVID B. GOODWIN (CA Bar #104469)
2 RANI GUPTA (CA Bar #296346)
3 BREANNA K. JONES (CA Bar #318597)
4 COVINGTON & BURLING LLP
5 415 Mission Street, Suite 5400
6 San Francisco, California 94105
7 Telephone: (415) 591-6000
8 Facsimile: (415) 591-6091
9 Email: dgoodwin@cov.com; rgupta@cov.com;
10 bjones@cov.com

FILED
ALAMEDA COUNTY

OCT 16 2020

CLERK OF THE SUPERIOR COURT
By  Deputy

11 BENEDICT M. LENHART (*pro hac vice application forthcoming*)
12 MATTHEW J. SCHLESINGER (*pro hac vice application forthcoming*)
13 JENNIFER L. SAULINO (*pro hac vice application forthcoming*)
14 RUKESH A. KORDE (*pro hac vice application forthcoming*).
15 COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, DC 20001
Telephone: (202) 662-6000
Facsimile: (202) 778-5906
Email: blenhart@cov.com; mschlesinger@cov.com;
jsaulino@cov.com; rkorde@cov.com

16 Attorneys for Plaintiffs

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF ALAMEDA**

19 OAKLAND ATHLETICS BASEBALL
20 COMPANY (the d/b/a of Athletics Investment
Group LLC); SAN FRANCISCO GIANTS
21 BASEBALL CLUB LLC; LOS ANGELES
22 DODGERS LLC; LOS ANGELES ANGELS
(the d/b/a of Angels Baseball LP); SAN DIEGO
23 PADRES (the d/b/a of Padres L.P.); ARIZONA
24 DIAMONDBACKS (the d/b/a of AZPB
25 Limited Partnership); ATLANTA BRAVES
(the d/b/a of Atlanta National Baseball Club,
26 LLC); BALTIMORE ORIOLES LIMITED
27 PARTNERSHIP; BOSTON RED SOX
28 BASEBALL CLUB LIMITED
PARTNERSHIP; CHICAGO CUBS
BASEBALL CLUB LLC; CHICAGO WHITE
SOX, LTD.; THE CINCINNATI REDS LLC;

Civil Case No. RG 20079003

**COMPLAINT FOR
BREACH OF CONTRACT,
DECLARATORY RELIEF AND
MONEY DAMAGES**

JURY TRIAL DEMANDED

1 CLEVELAND INDIANS BASEBALL
2 COMPANY, LLC; COLORADO ROCKIES
3 BASEBALL CLUB, LTD.; DETROIT
4 TIGERS, INC.; HOUSTON ASTROS, LLC;
5 KANSAS CITY ROYALS BASEBALL
6 CLUB, LLC; MIAMI MARLINS (the d/b/a of
7 Marlins Teamco LLC); MILWAUKEE
8 BREWERS BASEBALL CLUB, LIMITED
9 PARTNERSHIP; MINNESOTA TWINS, LLC;
10 NEW YORK METS (the d/b/a of Sterling
11 Mets, L.P.); NEW YORK YANKEES
12 PARTNERSHIP; PHILADELPHIA PHILLIES
13 (the d/b/a of The Phillies); PITTSBURGH
14 PIRATES (the d/b/a of Pittsburgh Associates,
15 LP); SEATTLE MARINERS (the d/b/a of The
16 Baseball Club of Seattle, LLLP); ST. LOUIS
17 CARDINALS, LLC; TAMPA BAY RAYS (the
18 d/b/a of Rays Baseball Club, LLC); TEXAS
19 RANGERS (the d/b/a of Rangers Baseball
20 LLC); TORONTO BLUE JAYS (the d/b/a of
21 Rogers Blue Jays Baseball Partnership);
22 WASHINGTON NATIONALS BASEBALL
23 CLUB; OFFICE OF THE COMMISSIONER
24 OF BASEBALL (d/b/a Major League
25 Baseball); MLB ADVANCED MEDIA, INC.;
26 THE MLB NETWORK, LLC; and
27 TICKETS.COM, LLC,

28 Plaintiffs,

v.

29 AIG SPECIALTY INSURANCE COMPANY;
30 FACTORY MUTUAL INSURANCE
31 COMPANY; INTERSTATE FIRE &
32 CASUALTY COMPANY; and DOES 1-100,

33 Defendants.

1 TABLE OF CONTENTS

2

| | Page |
|---|------|
| 3 NATURE OF THE ACTION | 5 |
| 4 THE PARTIES | 6 |
| 5 JURISDICTION AND VENUE..... | 11 |
| 6 FACTUAL ALLEGATIONS | 12 |
| 7 I. BASEBALL IS OUR NATIONAL PASTIME..... | 12 |
| 8 A. Overview of Major League Baseball | 12 |
| 9 B. Baseball's Revenue Depends Largely on the Ability to Play and Fan | |
| 10 Attendance..... | 13 |
| 11 II. PLAINTIFFS PURCHASED INSURANCE TO PROTECT THEMSELVES | |
| 12 AGAINST CATASTROPHES..... | 15 |
| 13 III. THE CORONAVIRUS AND COVID-19 CAUSE PHYSICAL LOSS AND | |
| 14 DAMAGE..... | 19 |
| 15 A. COVID-19 Is a Deadly Communicable Disease..... | 19 |
| 16 B. COVID-19 and the Coronavirus Cause Physical Loss and Damage | 20 |
| 17 IV. NUMEROUS OUTBREAKS OF COVID-19 CAUSED PHYSICAL LOSSES | |
| 18 AND DAMAGES AND FORCED BASEBALL TO CANCEL 1,500 GAMES | 24 |
| 19 A. COVID-19 Outbreaks Forced Cancellation of Spring Training | 25 |
| 20 B. Outbreaks and Government Orders Prevented Baseball Games From | |
| 21 Being Played..... | 25 |
| 22 C. COVID-19 Outbreaks and Government Orders Forced Baseball to | |
| 23 Schedule a Greatly Shortened 60-Game Season..... | 33 |
| 24 D. Baseball Has Suffered Billions in Losses | 34 |
| 25 V. THE POLICIES COVER BASEBALL'S LOSSES | 36 |
| 26 A. Each Plaintiff Has Suffered Insured Physical Loss or Damage | 37 |
| 27 B. Each Plaintiff Has Suffered Insured Time Element Loss | 44 |

| | | |
|----|--|----|
| 1 | C. Each Plaintiff Has Sustained Actual Losses and Incurred Extra Expenses Insured by the All Risks Policies' Civil Authority Coverage..... | 45 |
| 2 | | |
| 3 | D. Each Plaintiff Has Sustained Actual Losses and Incurred Extra Expenses Insured by the All Risks Policies' Ingress/Egress Coverage | 47 |
| 4 | | |
| 5 | E. Plaintiffs Have Sustained Actual Loss Insured by the All Risks Policies' Coverage for Leasehold Interest and Rental Insurance..... | 48 |
| 6 | | |
| 7 | F. Each Plaintiff Has Sustained Actual Loss and Incurred Extra Expense Insured by the All Risks Policies' Coverage for Contingent Time Element Locations..... | 49 |
| 8 | | |
| 9 | G. Each Plaintiff Has Sustained Actual Loss and Incurred Extra Expense Insured by the AIG Policy's Crisis Management Coverage | 49 |
| 10 | | |
| 11 | H. Each Plaintiff Has Suffered Physical Loss or Damage to Its Insured Property, Sustained Actual Loss and Incurred Extra Expense Insured by the All Risks Policies' Communicable Disease Coverages | 50 |
| 12 | | |
| 13 | I. Each Plaintiff Has Incurred Costs and Has Sustained Actual Loss to Protect and Preserve Insured Property | 52 |
| 14 | | |
| 15 | J. Plaintiffs' Losses Trigger Other Coverages | 53 |
| 16 | | |
| 17 | K. No Exclusion Bars Coverage of Plaintiffs' Losses and Damages | 53 |
| 18 | | |
| 19 | VI. DESPITE BASEBALL'S TIMELY CLAIMS FOR COVERAGE, THE INSURERS REFUSED TO PAY IN ACCORDANCE WITH THEIR CONTRACTUAL PROMISES..... | 55 |
| 20 | | |
| 21 | FIRST CAUSE OF ACTION (For Declaratory Relief Against AIG) | 57 |
| 22 | | |
| 23 | SECOND CAUSE OF ACTION (For Declaratory Relief Against Factory Mutual) | 59 |
| 24 | | |
| 25 | THIRD CAUSE OF ACTION (For Declaratory Relief Against Interstate) | 61 |
| 26 | | |
| 27 | FOURTH CAUSE OF ACTION (For Breach of Contract Against AIG) | 63 |
| 28 | | |
| 29 | FIFTH CAUSE OF ACTION (For Breach of Contract Against Factory Mutual)..... | 64 |
| 30 | | |
| 31 | SIXTH CAUSE OF ACTION (For Breach of Contract Against Interstate)..... | 65 |
| 32 | | |
| 33 | PRAYER FOR RELIEF | 66 |
| 34 | | |

The 30 Major League Baseball Clubs and affiliated entities have brought this action against their “all risks” property damage and business interruption insurers, Defendants AIG Specialty Insurance Company, Factory Mutual Insurance Company, and Interstate Fire & Casualty Company (collectively, the “Insurers”), to obtain insurance coverage for massive property damage and “time element” losses that the Clubs and their affiliates have experienced as a result of COVID-19.

NATURE OF THE ACTION

1. COVID-19 has been a tragedy that affects all of our lives and businesses. Thus far, COVID-19 has infected more than eight million and killed more than 215,000 in the United States, and has caused far too many people and businesses to suffer great economic harm.

2. This case is about the severe economic damage COVID-19 has caused Baseball, and the insurance coverage purchased to protect Baseball against the risk of catastrophic economic losses like those that Baseball now faces. The 30 Major League Baseball Clubs (“the Clubs”), along with the Office of the Commissioner of Baseball, MLB Advanced Media, Inc., The MLB Network, LLC, and Tickets.com, LLC (collectively with the Clubs, “Baseball” or “Plaintiffs”) bring this lawsuit to enforce the insurance promises made by the Insurers.

3. Fans in the stands have been the core of Baseball's revenue since its inception. Fans flocked to baseball stadiums even through two world wars, and a host of other local, regional, national, and global crises. For over a century, whenever America faced a crisis, baseball—and attending baseball games—was a common bond that united the country. Because of the physical harm caused by COVID-19, however, the Clubs had to cancel more than 1,500 games, resulting in the shortest regular season on record. COVID-19 forced the Clubs to play the entirety of this shortened regular season without that core: fans in the stands.

4. A series of unprecedented governmental orders issued across the United States and in Canada, many expressly citing the physical damage to property resulting from the deadly nature of COVID-19 and its means of transmission, prohibited games and then prohibited fans from attending games. Plaintiffs' loss of revenue and additional expenses, initially from

canceled games and then from playing games without fans in the stands, is in the billions of dollars.

5. Fortunately, Baseball had purchased top-flight insurance—all risks business interruption coverage (the “All Risks Policies” or “Policies” attached as Exhibits A through C to this Complaint)—to protect itself against such a catastrophe. That insurance came at a significant price. Baseball paid millions of dollars in premiums year after year because it deliberately bought broad, more protective coverage. The All Risks Policies, for example, specifically insure against physical loss or damage arising from communicable disease *caused by virus*. The All Risks Policies also include coverage promises for business interruption losses, losses occasioned by government orders, losses occurring when access to or from stadiums becomes difficult or risky, the costs of crisis management, and extra expense payments, among many covered losses. The so-called contamination exclusion in the Policies does not apply to the losses here because it does not exclude, for example, losses from communicable disease caused by virus and does not apply at all to business interruption losses.

6. Yet, the Insurers have very publicly refused to live up to their contractual obligation to pay what they promised. This civil suit seeks declaratory relief and money damages arising from the Insurers' failure and refusal to pay Baseball's COVID-19 insurance claims.

THE PARTIES

7. Plaintiff Athletics Investment Group LLC, d/b/a Oakland Athletics Baseball Company (“Oakland Athletics”) is a limited liability company organized and existing under the laws of the State of California, with its principal place of business in Oakland, California.

8. Plaintiff San Francisco Giants Baseball Club LLC (“San Francisco Giants”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California.

9. Plaintiff Los Angeles Dodgers LLC (“Los Angeles Dodgers”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Los Angeles, California.

10. Plaintiff Angels Baseball LP (“Los Angeles Angels”) is a limited partnership organized and existing under the laws of the State of California, with its principal place of business in Anaheim, California.

11. Plaintiff Padres L.P. ("San Diego Padres") is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business in San Diego, California.

12. Plaintiff AZPB Limited Partnership (“Arizona Diamondbacks”) is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business in Phoenix, Arizona.

13. Plaintiff Atlanta National League Baseball Club, LLC (“Atlanta Braves”) is a limited liability company organized and existing under the laws of the State of Georgia, with its principal place of business in Atlanta, Georgia.

14. Plaintiff Baltimore Orioles Limited Partnership (“Baltimore Orioles”) is a limited partnership organized and existing under the laws of the State of Maryland, with its principal place of business in Baltimore, Maryland.

15. Plaintiff Boston Red Sox Baseball Club Limited Partnership (“Boston Red Sox”) is a limited partnership, organized and existing under the laws of the State of Massachusetts, with its principal place of business in Boston, Massachusetts.

16. Plaintiff Chicago Cubs Baseball Club, LLC (“Chicago Cubs”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois.

17. Plaintiff Chicago White Sox, Ltd. ("Chicago White Sox") is a limited partnership organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago, Illinois.

18. Plaintiff The Cincinnati Reds LLC (“Cincinnati Reds”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Cincinnati, Ohio.

19. Plaintiff Cleveland Indians Baseball Company, LLC (“Cleveland Indians”) is a limited liability company organized and existing under the laws of the State of Ohio, with its principal place of business in Cleveland, Ohio.

20. Plaintiff Colorado Rockies Baseball Club, Ltd. (“Colorado Rockies”) is a limited partnership organized and existing under the laws of the State of Colorado, with its principal place of business in Denver, Colorado.

21. Plaintiff Detroit Tigers, Inc. (“Detroit Tigers”) is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business in Detroit, Michigan.

22. Plaintiff Houston Astros, LLC (“Houston Astros”) is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business in Houston, Texas.

23. Plaintiff Kansas City Royals Baseball Club, LLC (“Kansas City Royals”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Kansas City, Missouri.

24. Plaintiff Marlins Teamco LLC (“Miami Marlins”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Miami, Florida.

25. Plaintiff Milwaukee Brewers Baseball Club, Limited Partnership (“Milwaukee Brewers”) is a limited partnership organized and existing under the laws of the State of Wisconsin, with its principal place of business in Milwaukee, Wisconsin.

26. Plaintiff Minnesota Twins, LLC (“Minnesota Twins”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business in Minneapolis, Minnesota.

27. Plaintiff Sterling Mets, L.P. (“New York Mets”) is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business in Queens, New York City, New York.

1 28. Plaintiff New York Yankees Partnership (“New York Yankees”) is a limited
2 partnership organized and existing under the laws of the State of Ohio, with its principal place of
3 business in the Bronx, New York City, New York.

4 29. Plaintiff The Phillies (“Philadelphia Phillies”) is a limited partnership organized
5 and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of
6 business in Philadelphia, Pennsylvania.

7 30. Plaintiff Pittsburgh Associates, LP (“Pittsburgh Pirates”) is a limited partnership
8 organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal
9 place of business in Pittsburgh, Pennsylvania.

10 31. Plaintiff The Baseball Club of Seattle, LLLP (“Seattle Mariners”) is a limited
11 liability limited partnership organized and existing under the laws of the State of Washington,
12 with its principal place of business in Seattle, Washington.

13 32. Plaintiff St. Louis Cardinals, LLC (“St. Louis Cardinals”) is a limited liability
14 company organized and existing under the laws of the State of Missouri, with its principal place
15 of business in St. Louis, Missouri.

16 33. Plaintiff Rays Baseball Club, LLC (“Tampa Bay Rays”) is a limited liability
17 company organized and existing under the laws of the State of Florida, with its principal place
18 of business in St. Petersburg, Florida.

19 34. Plaintiff Rangers Baseball LLC (“Texas Rangers”) is a limited liability company
20 organized and existing under the laws of the State of Delaware, with its principal place of
21 business in Arlington, Texas.

22 35. Plaintiff Rogers Blue Jays Baseball Partnership (“Toronto Blue Jays”) is a general
23 partnership organized and existing under the laws of the Province of Ontario, Canada, with its
24 principal place of business in Toronto, Ontario, Canada.

25 36. Plaintiff Washington Nationals Baseball Club, LLC (“Washington Nationals”) is a
26 limited liability company organized and existing under the laws of the District of Columbia,
27 with its principal place of business in Washington, D.C.

1 37. Each Club, directly or indirectly, has management control over, or an economic
2 interest in, entities that both are also insureds under the Policies and have suffered covered
3 losses as a result of the events described herein.

4 38. Plaintiff Office of the Commissioner of Baseball, d/b/a Major League Baseball
5 (“BOC”), is an unincorporated association organized and existing under the laws of the State of
6 New York, with its principal place of business in New York, New York.

7 39. Plaintiff MLB Advanced Media, Inc., is a corporation organized and existing
8 under the laws of the State of Delaware, with its principal place of business in New York, New
9 York.

10 40. Plaintiff The MLB Network, LLC (“MLB Network”) is a limited liability
11 company organized and existing under the laws of the State of Delaware, with its principal place
12 of business in Secaucus, New Jersey.

13 41. Plaintiff Tickets.com, LLC is a limited liability company organized and existing
14 under the laws of the State of Delaware, with its principal place of business in Costa Mesa,
15 California. (BOC, MLB Advanced Media, Inc., MLB Network, and Tickets.com, LLC are
16 referred to collectively as “MLB Entities.”)

17 42. Defendant AIG Specialty Insurance Company (“AIG”) is a corporation organized
18 and existing under the laws of the State of Illinois, with its principal place of business in New
19 York, New York. At all times relevant hereto, AIG was doing and transacting business in the
20 State of California.

21 43. Defendant Factory Mutual Insurance Company (“Factory Mutual”) is a
22 corporation organized and existing under the laws of the State of Rhode Island, with its principal
23 place of business in Johnston, Rhode Island. At all times relevant hereto, Factory Mutual was
24 licensed to do business, and was doing and transacting business, in the State of California.

25 44. Defendant Interstate Fire & Casualty Company (“Interstate”) is a corporation
26 organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago,
27 Illinois. At all times relevant hereto, Interstate was doing and transacting business in the State
28 of California.

45. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as DOES 1-100, inclusive, and therefore sue these defendants by said fictitious names. Plaintiffs are informed and believe, and thereon allege, that said fictitiously named defendants are responsible in some manner for the events and happenings herein referred to, and negligently or otherwise caused injuries and damages proximately thereby to Plaintiffs as herein alleged.

JURISDICTION AND VENUE

46. The Court has jurisdiction over the claims asserted in this Complaint pursuant to the California Constitution, Article VI, § 10.

47. Each Insurer, by the express terms of its respective All Risks Policy, consented to the jurisdiction of the United States of America, which includes the State of California.

48. In addition, five Clubs are based in California: the Oakland Athletics, San Francisco Giants, Los Angeles Angels, Los Angeles Dodgers, and San Diego Padres. No other state is regularly home to more than two Clubs. In prior years, all Clubs played games in the California Clubs' ballparks, and all were scheduled to do so in 2020. During the 2020 season, every Club suffered one or more COVID-19-related cancellations of games scheduled to be played in California, and these cancellations add to the COVID-19-related losses that Plaintiffs have suffered related to California. During the truncated 2020 regular season, fans were prohibited from attending games in California, and these prohibitions add to the COVID-19-related losses with a California nexus. More regular season baseball games had initially been scheduled in California—and more regular season baseball games were canceled in California—during the 2020 season than in any other state. Plaintiff Tickets.com, LLC also is headquartered in California and has incurred substantial COVID-19-related losses. In fact, twenty-six insured locations under the All Risks Policies are in California, including the Oakland Coliseum and two other properties in this County. California has more insured locations than any other state.

49. Venue is proper in this Court pursuant to Code of Civil Procedure § 395(a) and § 395.5 as the obligations under the contracts at issue were to be performed, the defendants do business, and the events that led to this dispute occurred, in part, in this County.

FACTUAL ALLEGATIONS

I. BASEBALL IS OUR NATIONAL PASTIME

A. Overview of Major League Baseball

50. Year after year, the Clubs attract tens of millions more fans than any other sports league in the world.¹ In recent years, one-quarter of all adult Americans attended a baseball game and millions more watched baseball on television or digital streaming platforms, or listened to games on the radio. Baseball is also a popular sport in Canada, with millions of fans attending baseball games in person and watching and listening on various platforms.

51. The Clubs are divided into two leagues, the American League and the National League. Each league includes 15 Clubs, divided into three divisions: the West, Central, and East.

52. The baseball season includes a pre-season (“Spring Training”), a regular season, and a Postseason.

53. The Clubs participate in Spring Training during February and March in Florida and Arizona. In 2019, more than three million fans attended Spring Training exhibition games.

54. Baseball's regular season starts with Opening Day, typically in late March or early April. Thereafter, the regular season runs for approximately six months, typically through the end of September.

55. In 2020 and in recent years, each of the 30 Clubs was scheduled to play 162 games, for a total of 2,430 regular season games.

56. In 2019, an average of 28,317 fans attended each game. Total paid attendance for the year, at all of the Clubs' ballparks, was 68,494,752 fans. This total attendance was roughly three times that of any other American professional sports league in 2019.

¹ See <https://www.nytimes.com/interactive/2019/10/22/sports/baseball/baseball-popularity-world-series.html> (last viewed Oct. 15, 2020); <https://www.businessinsider.com/attendance-sports-leagues-world-2015-5#:~:text=If%20we%20consider%20total%20attendance,the%20world%20cracked%2025%20million.&text=Don't%20miss%20industry%20news> (last viewed Oct. 15, 2020).

1 57. In addition to regular season games, each year Baseball holds special events that
2 draw additional spectators and viewers, such as the All-Star Game, a tradition that dates back to
3 1933.

4 58. Each Club competes during the regular season to qualify for the Postseason. In
5 recent years, the Postseason has included ten teams: six Division champions (three from each
6 league) and four Wild Card teams (two from each league).

7 59. The Postseason typically runs throughout October and concludes with the World
8 Series Championship. In recent years, the Postseason has consisted of two Wild Card games
9 (one in each league); four best-of-five games Division Series (two in each league); and two best-
10 of-seven games League Championship Series (one in each league). The winners of the
11 American League Championship Series and the National League Championship Series play
12 each other in the best-of-seven-games World Series.

13 60. Under this format, the total number of Postseason games can range from 26 to 43
14 each year. In 2019, there were 37 Postseason games. More than 1.6 million fans attended
15 Postseason games that year.

16 61. The World Series is one of the most watched sporting events in America. In 2019,
17 for example, the seven-game World Series between the Washington Nationals and Houston
18 Astros averaged 14 million viewers per game and more than 27 million people tuned in to watch
19 the Nationals win their first world championship in game seven.

20 **B. Baseball's Revenue Depends Largely on the Ability to Play and Fan
21 Attendance**

22 62. Baseball generates revenue from a number of sources that depend on the
23 attendance of fans at ballparks, and upon fans as consumers of goods, services, and baseball-
24 related media, such as television and radio broadcasts.

25 63. Baseball's largest sources of revenue are derived from ballpark-related activities,
26 such as ticket sales, concessions, parking, and in-ballpark merchandise sales. In 2019, in-park
27 sales totaled well into the billions of dollars. This revenue would have continued in 2020 but for
28 COVID-19 and the many physical losses and damages that it caused.

1 64. In addition to revenue derived from fan attendance at stadiums, Baseball generates
2 substantial revenue from local and national media. Baseball is enormously popular
3 programming on regional sports networks. In 2019, the local game telecasts for twelve Clubs
4 ranked first in prime time viewership in their respective markets, and the local game telecasts for
5 the majority of Clubs ranked in the top three in their market in total prime time audience.
6 Nationally televised baseball games are also extremely popular. In 2019, viewership for
7 nationally-televised games totaled, on average, between 1.6 and 2.4 million viewers per game.

8 65. MLB Network, Baseball's own cable television network, also broadcasts live
9 games, provides other baseball content to viewers, and distributes live games and produces
10 programming for third parties (*e.g.*, YouTube, Marquee Sports Network, etc.). Much of this
11 content relates to and/or requires the playing of live games, and without such games, MLB
12 Network cannot maximize the generation of revenue for Baseball. In 2019, MLB Network
13 generated tens of millions of dollars in revenue for Baseball.

14 66. Among other activities, MLB Advanced Media generates revenue from Baseball's
15 websites and digital properties, including MLB.TV and a variety of mobile apps, as well as from
16 media and sponsorships, all of which depend in large part on games being played. From April
17 through August of 2019, Baseball's digital platforms averaged the most time spent per visitor of
18 any U.S. sport. In 2019, MLB Advanced Media generated substantial revenue from these
19 sources, among others.

20 67. In addition to providing content and deriving revenue from its own digital
21 properties, Baseball provides content and derives revenue from other digital platforms. For
22 example, 2019 marked Baseball's first season of exclusive game broadcasts on YouTube and
23 YouTube TV. For this 13-game package, average viewership was 1.2 million live views per
24 game.

25 68. Many Clubs also generate other substantial covered revenue, such as for the use or
26 rental of their facilities for non-baseball events, including concerts, festivals, meetings, camps,
27 weddings, and other special events. For example, in 2019 certain ballparks hosted concerts for
28

1 Paul McCartney, Billy Joel, The Who, and many other acts. In 2019, tens of millions of dollars
2 were generated from various non-Major League Baseball events.

3 69. Certain Clubs also generate substantial rental income from properties that they
4 lease or license to third parties. In 2019, such properties generated millions in rental income.

5 70. Baseball generates revenue in addition to that described above.

6 71. Much of the revenue described above was lost in 2020 due to COVID-19, the
7 related physical losses and damages, and the many civil and government orders in states where
8 ballparks are located as well as in neighboring states that prevented or disrupted a normal
9 regular season schedule and normal stadium operations. As explained in section IV.D, below,
10 Baseball lost billions of dollars in revenue in 2020, and incurred other losses and expenses, due
11 to the various COVID-19-related causes and events described above. These losses and expenses
12 are ongoing and covered under the All Risks Policies.

13 **II. PLAINTIFFS PURCHASED INSURANCE TO PROTECT THEMSELVES 14 AGAINST CATASTROPHES**

15 72. To protect their significant property and business income interests, Plaintiffs
16 purchased top-shelf All Risks Policies for which the Insurers collected substantial premiums.
17 The All Risks Policies specifically recognize coverage for a wide array of COVID-19 losses,
18 including, by way of example, losses caused when orders by civil authorities shut down baseball
19 operations and losses from a communicable disease caused by virus. Coverage includes a
20 number of different business interruption categories that apply where a communicable disease
21 (such as COVID-19) causes physical loss or damage.

22 73. There are three relevant All Risks Policies. The effective dates of the All Risks
23 Policies are February 1, 2020 through February 1, 2021. The pertinent provisions in the All
24 Risks Policies are insurer-drafted.

25 74. Plaintiffs purchased Policy No. 025032768 from AIG Specialty Insurance
26 Company (the “AIG Policy”), covering 30% of the Insurers’ total limits of liability. A copy of
27 the AIG Policy is attached to and made part of this Complaint at Exhibit A.

28 75. Plaintiffs purchased Policy No. 1064242 (the “Factory Mutual Policy”) from
29 Factory Mutual, covering 60% of the Insurers’ total limits of liability (70% for losses outside the

1 United States). A copy of the Factory Mutual Policy is attached to and made part of this
2 Complaint as Exhibit B.

3 76. Plaintiffs purchased Policy No. RTX20048620 from Interstate Fire & Casualty
4 Company (the “Interstate Policy”), covering 10% of the Insurers’ total policy limits for domestic
5 losses. A copy of the Interstate Policy is attached to and made part of this Complaint at Exhibit
6 C.

7 77. The first “named insureds” under the All Risks Policies are the 30 Clubs. The
8 MLB Entities are also insureds under the Policies. In addition, Plaintiffs have subsidiaries and
9 related entities that are also insureds, as set forth more fully in the Policies.

10 78. The All Risks Policies insure 248 separate scheduled locations, as well as any
11 location purchased, leased or rented by the Insured after the inception date of February 1, 2020,
12 and other “miscellaneous properties” as described in the All Risks Policies.

13 79. The Policies’ limits of liability, *i.e.*, the amounts the Insurers are obligated to pay,
14 apply on a “per occurrence” basis, except as expressly stated otherwise in the All Risks Policies.

15 80. The Policies cover up to \$1,635,869,608.00 in losses for any one “occurrence,”
16 and potentially much more for losses involving multiple occurrences. Some of the insuring
17 agreements are subject to sub-limits, as set forth in the Policies. The Policies define
18 “occurrence” in pertinent part as “the sum total of all loss or damage of the type insured,
19 including any insured TIME ELEMENT loss, arising out of or caused by one discrete event of
20 physical loss or damage.”

21 81. The All Risks Policies cover “all risks of physical loss or damage,” other than
22 those expressly excluded, as well as express coverage for specified perils. Each Policy provides
23 both “Property Damage” and “Time Element” coverage.

24 82. The basic “Time Element” (or business interruption) grant of coverage in each
25 Policy insures against either GROSS EARNINGS or GROSS PROFITS loss (at the Insured’s
26 election) during the Period of Liability, as set forth more fully in the Policies. The “Time
27 Element” portion of the Policies also provides EXTRA EXPENSE coverage for the extra costs
28

1 incurred during the Period of Liability to continue in business and to temporarily use other
2 facilities.

3 83. In addition, the “Time Element” portion of the Policies includes a series of
4 coverage extensions, among which, as set forth more fully in the Policies, are:

- 5 • Civil or Military Authority coverage for actual loss sustained and extra expense
6 incurred if an order of civil authority limits, restricts, or prohibits partial or total
7 access (or, for the AIG Policy, impairs access) to an insured location if the
8 order is the direct result of physical damage (or, in the case of the AIG Policy,
9 physical loss or damage) of the type insured at the insured location or within ten
10 statute miles;
- 11 • Ingress/Egress coverage for actual loss sustained and extra expense when the
12 insured’s business is interrupted due to partial or total physical prevention of
13 ingress to or egress from an insured location (or, in the case of the AIG Policy,
14 access to or egress from an insured location is impaired);
- 15 • Leasehold Interest coverage for continued rent payments made on property that
16 is wholly or partially untenable or unusable;
- 17 • Rental Insurance coverage for, among other things, lost rent and actual loss
18 sustained with respect to rental properties;
- 19 • Extended Period of Liability coverage for lost GROSS EARNINGS and Rental
20 Insurance losses incurred after the end of the Period of Liability;
- 21 • Eight types of business interruption coverage for actual loss sustained and extra
22 expense resulting from physical loss or damage at “contingent time element
23 locations,” which includes the location of any customer, supplier, contract
24 manufacturer or contract service provider to the Insured, and of any company
25 under a royalty, licensing fee or commission agreement with the Insured;
- 26 • In the AIG Policy, Crisis Management coverage for actual loss sustained and
27 extra expense when there is an interruption or interference with business as a
28 consequence of either infectious or contagious disease contracted or manifested

1 by any person while on the premises of the Insured, or the closing of all or part
2 of the insured premises by order of a competent public authority because of the
3 existence or threat of actual or suspected hazardous conditions at insured
4 premises;

5

- 6 Business interruption coverage resulting from the restriction of access to any
7 location owned, leased or rented by the Insured due to the actual presence of
8 communicable disease; and
- 9 Protection and Preservation of Property time element coverage for actual loss
10 sustained to prevent immediately impending, insured physical loss or damage to
insured property.

11 84. The Policies each have a basic “Property Damage” grant of coverage that includes
12 the following additional coverage provisions, as set forth more fully in the Policies:

13

- 14 Communicable Disease Response coverage, including but not limited to costs
incurred for cleanup, removal and disposal of communicable diseases from
15 insured property and related public relations fees and costs;
- 16 Protection and Preservation of Property coverage, including but not limited to
costs incurred to temporarily protect property in order to prevent actual or
17 impending physical loss or damage to insured property; and
- 18 Claims Preparation Costs, including but not limited to reasonable fees payable
to accountants, architects, auditors, engineers, or other professionals, as well as
19 the cost of using the Insured’s employees for producing and certifying any
particulars or details contained in the Insured’s books or documents, or such
20 other proofs, information or evidence required by the Company resulting from
21 insured loss payable under this Policy for which the Company has accepted
22 liability.

1 **III. THE CORONAVIRUS AND COVID-19 CAUSE PHYSICAL LOSS AND**
2 **DAMAGE**

3 **A. COVID-19 Is a Deadly Communicable Disease**

4 85. As described above, the All Risks Policies include “time element” coverage for
5 losses resulting from a communicable disease like COVID-19. COVID-19 is a deadly
6 communicable disease caused by the recently discovered coronavirus, known as SARS-CoV-2
7 (referred to herein as “SARS-CoV-2” or “the coronavirus”). Not all viruses cause
8 communicable diseases. There are viruses that do not infect humans, and there are viruses that
9 infect humans but cannot be transmitted from human to human. Further, not all viruses that
10 cause communicable disease cause the type of loss or damage to property that the coronavirus
11 causes, or prompt authorities to issue shutdown orders or other civil orders. COVID-19 is a rare
12 exception that, because of its particular nature and characteristics, meets all of these criteria: it
13 is a communicable disease; it has caused physical loss and damage; and it has thereby led to
14 hundreds of orders prohibiting anything other than very small gatherings, and ultimately, to
15 enormous financial losses.

16 86. The coronavirus can be transmitted in several ways, including via human-to-
17 human contact, airborne viral particles in ambient air, and touching surfaces or objects. For
18 example, when an uninfected person touches a surface containing the coronavirus, the
19 uninfected person may transmit the coronavirus to another person, either by touching and
20 contaminating a second surface, which is subsequently touched by that other person, or more
21 directly by transmitting the coronavirus to another person. The coronavirus spreads easily from
22 person to person and person to surface or object, primarily through small, physical droplets
23 expelled from the nose or mouth when an infected person speaks, yells, sings, coughs, or
24 sneezes. According to research published in The Journal of the American Medical Association,
25 a person who sneezes can release a cloud of pathogen-bearing droplets that can span as far as 23
26 to 27 feet.² The Centers for Disease Control and Prevention (“CDC”) has stated that the

28 ² See <https://jamanetwork.com/journals/jama/fullarticle/2763852> (last viewed Oct. 15,
29 2020).

1 coronavirus is most likely to spread when people are within six feet of each other, but has
2 acknowledged that the coronavirus may spread from an infected person who is more than six
3 feet away or who has left a given space.³ Further, “longer exposure time likely increases
4 exposure risk” to the coronavirus.⁴

5 87. According to the World Health Organization (“WHO”), the incubation period for
6 COVID-19—*i.e.*, the time between exposure to the coronavirus and symptom onset—can be up
7 to 14 days. Other studies suggest that the period may be up to 21 days. Before infected
8 individuals exhibit symptoms, *i.e.*, the so-called “pre-symptomatic” period, they are most
9 contagious, as their viral loads will likely be very high, and they may not know they have
10 become carriers. In addition, studies from the CDC and others estimate that between 40% to
11 70% of infected individuals may never become symptomatic (referred to as “asymptomatic”
12 carriers). Pre- and asymptomatic carriers are likely unaware that they are spreading the
13 coronavirus by merely touching objects and surfaces, or by expelling droplets into the air. The
14 National Academy of Sciences has found that the majority of transmission is attributable to
15 people who are not showing symptoms, either because they are pre-symptomatic or
16 asymptomatic.

17 **B. COVID-19 and the Coronavirus Cause Physical Loss and Damage**

18 88. Physical droplets containing the coronavirus can land on objects and surfaces.
19 After landing on objects and surfaces, the coronavirus can remain present and dangerous for
20 periods ranging from hours to many days.

21 89. According to the WHO, people can become infected with the coronavirus by
22 touching such objects and surfaces, then touching their eyes, nose, or mouth. This mode of
23 transmission—indirect transmission via objects and surfaces—is known as “fomite

25 ³ See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last viewed Oct. 15, 2020).

26
27 ⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html> (last viewed Oct. 15, 2020).

1 transmission.” As the WHO has noted, fomite transmission is “a likely mode of transmission
2 for SARS-CoV-2” because studies have consistently confirmed the existence of virus-laden
3 droplets on objects and surfaces “in the vicinity of infected cases,” and because it is well known
4 that other coronaviruses can be transmitted via fomite transmission.⁵

5 90. A study of a COVID-19 outbreak published in the CDC’s Emerging Infectious
6 Diseases journal identified indirect transmission via objects such as elevator buttons and
7 restroom taps as an important possible cause of a “rapid spread” of the coronavirus in a
8 shopping mall in Wenzhou, China.⁶

9 91. Research has indicated that the coronavirus can be detected on certain surfaces
10 even weeks after infected persons are present at a given location.

11 92. One study, for example, found that the coronavirus remains active and dangerous
12 on plastics for at least three days, while another reported that the coronavirus remained stable
13 and viable for seven days on a range of common surfaces, including plastic, stainless steel,
14 glass, and wood.⁷ Another study detected viable coronavirus samples on glass, stainless steel,
15 and money for approximately one month if left at or around room temperature.

16 93. Research has also indicated that the coronavirus can spread through the air. For
17 example, airborne viral particles are known to have spread into a facility’s heating and
18 ventilation (“HVAC”) system, leading to transmission of the coronavirus from person to person.
19 A study of an outbreak at a restaurant in China concluded that the spread of the coronavirus
20 “was prompted by air-conditioned ventilation,” with persons who sat at tables downstream of

21
22
23 ⁵ See <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions> (last viewed Oct. 15, 2020).

24
25 ⁶ See https://wwwnc.cdc.gov/eid/article/26/6/20-0412_article (last viewed Oct. 15, 2020).

26
27 ⁷ See <https://www.nejm.org/doi/full/10.1056/nejmc2004973> (last viewed on Oct. 15, 2020); <https://www.medrxiv.org/content/10.1101/2020.05.07.20094805v1.full.pdf> (last viewed on Oct. 15, 2020); <https://virologyj.biomedcentral.com/articles/10.1186/s12985-020-01418-7> (last viewed on Oct. 15, 2020).

1 the HVAC system's air flow becoming infected.⁸ Another study found the presence of the
2 coronavirus within the HVAC system servicing hospital ward rooms of COVID-19 patients.
3 This study detected SARS-CoV-2 RNA in ceiling vent openings, vent exhaust filters, and
4 central ducts that were located more than 50 meters from the patients' rooms.⁹

5 94. The Environmental Protection Agency ("EPA") has compiled several studies
6 reflecting "epidemiological evidence suggestive of [coronavirus] transmission through
7 aerosol."¹⁰ Based on these and other studies, the EPA has recommended that facilities make
8 improvements to their ventilation and HVAC systems by, for example, increasing ventilation
9 with outdoor air and air filtration.¹¹

10 95. Accordingly, COVID-19 and the coronavirus cause physical loss and damage by,
11 among other things, destroying, distorting, corrupting, attaching to, and physically altering
12 property, including its surfaces, and by rendering property unusable, uninhabitable, unfit for
13 intended function, dangerous and unsafe. While mitigation efforts have been undertaken and
14 remain ongoing, COVID-19 and the coronavirus have caused such physical loss and damage to
15 properties insured by the All Risks Policies, as described further below.

16 96. First, respiratory droplets (*i.e.*, droplets larger than 5-10 μm) expelled from
17 infected individuals land on, attach, and adhere to surfaces and objects. In doing so, they
18 physically change the property and its surface by becoming a part of that surface. This physical
19 alteration makes physical contact with those previously safe, inert surfaces (*e.g.*, walls,
20 handrails, desks) unsafe.

21 97. Second, when individuals carrying the coronavirus breathe, talk, cough, or sneeze,
22 they expel aerosolized droplet nuclei (*i.e.*, those smaller than 5 μm) that remain in the air and,

24 ⁸ See https://wwwnc.cdc.gov/eid/article/26/7/20-0764_article#r2 (last viewed Oct. 15, 2020).

25 ⁹ See <https://www.researchsquare.com/article/rs-34643/v1> (last viewed Oct. 15, 2020).

26 ¹⁰ See <https://www.epa.gov/coronavirus/indoor-air-and-covid-19-key-references-and-publications> (last viewed Oct. 15, 2020; capitalization omitted).

27 ¹¹ See <https://www.epa.gov/coronavirus/indoor-air-and-coronavirus-covid-19> (last viewed Oct. 15, 2020).

1 like dangerous fumes, make the premises unsafe and affirmatively dangerous. This process
2 alters the physical properties of air in buildings from safe and breathable to unsafe and
3 dangerous. As noted above, Baseball has undertaken, and continues to undertake, efforts to
4 mitigate the impacts of COVID-19 and the coronavirus.

5 98. Fomites, droplets, droplet nuclei, and aerosols containing the coronavirus are not
6 theoretical, informational, or incorporeal, but rather are dangerous physical substances that have
7 a material, tangible existence.

8 99. In a study by the U.S. National Institutes of Health, researchers found that the
9 coronavirus was detectable for up to three hours in aerosols, four hours on copper, up to 24
10 hours on cardboard, and up to three days on stainless steel and plastic surfaces.¹²

11 100. When the coronavirus and COVID-19 attach to and adhere on surfaces and
12 materials, they become a part of those surfaces and materials, converting the surfaces and
13 materials to fomites.¹³ This represents a physical change in the affected surface or material,
14 which constitutes physical loss and damage.

15 101. The presence of the coronavirus and COVID-19 within a facility causes physical
16 loss and damage by necessitating remedial measures that include without limitation extensive
17 cleaning and disinfecting, repairing or replacing air filtration systems, remodeling and
18 reconfiguring physical spaces, and other measures to reduce or eliminate the presence of cases
19 of COVID-19 and the coronavirus on-site.

20 102. The presence of cases of COVID-19 and the coronavirus within a facility causes
21 physical loss and damage by transforming the facility from property that is usable and safe for
22 humans into a property that is unsatisfactory for use, uninhabitable, unfit for its intended
23 function, and extremely dangerous and potentially deadly for humans.

24
25 12 See <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces> (last viewed Oct. 15, 2020).

26
27 13 See <https://www.who.int/news-room/commentaries/detail/transmission-of-sars-cov-2-implications-for-infection-prevention-precautions> (last viewed Oct. 15, 2020).

1 103. In addition, the presence of the coronavirus on property creates the imminent
2 threat of further damage to that property or to nearby property. Individuals who come into
3 contact, for example, with respiratory droplets at one location in the facility by touching a
4 doorknob or a handrail, will carry those droplets on their hands and deposit them elsewhere in
5 the facility, causing additional damage and loss.

6 104. The physical losses and physical damages described in this section III.B have
7 occurred at each Club's baseball stadiums and other baseball facilities, as well as at the offices
8 and other facilities used by the MLB Entities, leading to huge losses covered by the All Risks
9 Policies. To the extent that the All Risks Policies require structural alteration to establish
10 "physical damage," which Plaintiffs dispute, such alteration has occurred.

11 **IV. NUMEROUS OUTBREAKS OF COVID-19 CAUSED PHYSICAL LOSSES AND
12 DAMAGES AND FORCED BASEBALL TO CANCEL 1,500 GAMES**

13 105. During the first half of 2020, every state in the country with a Major League
14 Baseball stadium suffered outbreaks of COVID-19. Each of these outbreaks caused an
15 unprecedented loss of life, damage to property, business closures, financial losses, and other
16 losses.

17 106. Research from Northeastern University, reported by the New York Times,
18 confirmed that "hidden outbreaks" were spreading through cities long before testing confirmed
19 cases of COVID-19.¹⁴

20 107. Each outbreak had a significant detrimental impact on one or more of the
21 Plaintiffs. These outbreaks, the resulting damage to and loss of property (including both insured
22 properties and the property of others), the impaired ability to travel to and from stadiums and
23 other insured locations, and the resulting governmental orders, affected Club after Club after
24 Club, eventually making an ordinary baseball season impossible. COVID-19 outbreaks forced
25 the cancellation of every single scheduled game for four months—from March 2020 to late July
26 2020, the final weeks of Spring Training, and more than half of the normal regular season. For
27

28 14 See <https://www.nytimes.com/2020/04/23/us/coronavirus-early-outbreaks-cities.html>
(last viewed Oct. 15, 2020).

1 the period of time continuing through the date of this Complaint, the damage to and loss of their
2 facilities, the various governmental orders, and related circumstances have impaired and
3 interrupted the operations of each Plaintiff.

4 108. Baseball's ballparks and other facilities could no longer serve their principal
5 purpose. Each Club lost many millions of dollars (and collectively, Plaintiffs lost billions of
6 dollars) as core revenue streams were eliminated.

7 **A. COVID-19 Outbreaks Forced Cancellation of Spring Training**

8 109. In February 2020, players reported to Spring Training to prepare for the upcoming
9 season. Spring Training games were scheduled to begin February 22 and to run through late
10 March. The 2020 regular season was scheduled to begin for all 30 Clubs on March 26.

11 110. A series of COVID-19 outbreaks around the country followed the first confirmed
12 COVID-19 case in the state of Washington on January 21, 2020. The COVID-19 outbreaks
13 spread around the country, reaching Plaintiffs' facilities, and, on March 9, Baseball restricted
14 access to its facilities to essential personnel.

15 111. On March 12, Baseball announced it was cancelling Spring Training games "due
16 to the national emergency created by the coronavirus pandemic," and to protect the safety and
17 well-being of fans, players, staff, and the communities that host Spring Training.

18 **B. Outbreaks and Government Orders Prevented Baseball Games From Being
19 Played**

20 112. The impact of the outbreaks on each of the places in which the Clubs play was
21 severe, and the physical loss and damage resulting from the coronavirus and COVID-19 led
22 directly to civil orders restricting or prohibiting access to, among other places, insured locations,
23 including stadiums, resulting in massive losses to Plaintiffs. The All Risks Policies provide
24 coverage for precisely this situation: financial losses caused by civil orders, where those orders
25 result from physical loss or damage. Here, Baseball has suffered massive financial losses
26 caused by the shutdown of core operations due to civil orders that resulted in part from physical
27 loss and damage. Many of the key civil orders specifically cite the physical damage or harm
28 caused by COVID-19 as a basis for such order. The paragraphs below canvass the impact of a

1 few out of the many COVID-19 outbreaks and orders, which have affected every Club,
2 including by restricting, prohibiting and impairing partial or total access to insured locations.

3 113. By March 10, 2020, there were at least 11 confirmed COVID-19 cases in the City
4 of Oakland and Alameda County, home of the Oakland Coliseum and Oakland Athletics.¹⁵ By
5 March 11, both Oakland and Alameda County recommended cancelling public gatherings of
6 more than 1,000 people. On March 16, Alameda County prohibited all public and private
7 gatherings of any number of people. This order (along with other impacts of the outbreak)
8 prohibited public access to the Oakland Coliseum for any baseball games, and forced the
9 Oakland Athletics to cancel an exhibition game against the San Francisco Giants that had been
10 scheduled to take place at the Oakland Coliseum on March 23. A June 5 order recognized that
11 the coronavirus damages property, stating that “evidence shows that the virus can survive for
12 hours to days on surfaces,” and accordingly prohibited activities that include the use of shared
13 equipment and required contactless payment systems and regular disinfection of high-touch
14 surfaces.

15 114. By March 10, there were at least 19 confirmed COVID-19 cases in the City of San
16 Francisco.¹⁶ Those known cases, as well as likely cases involving undiagnosed or asymptomatic
17 carriers, resulted in physical damage to and loss of property in the City. On March 11, the City
18 and County of San Francisco, California, banned gatherings of more than 1,000 people. That
19 order (along with other impacts of the outbreak) forced the Giants to cancel an exhibition game
20 against the Oakland Athletics that had been scheduled to take place at Oracle Park in San
21 Francisco, home to the San Francisco Giants, on March 24, among other cancellations. The San
22 Francisco Board of Supervisors on April 7 adopted a “[r]esolution supporting the COVID-19
23 orders by civil authority interrupting and prohibiting access to businesses as necessary, *due to*
24 *physical property loss or damage*” (emphasis added). This and other state and local orders
25 (along with other impacts of the outbreak) prohibited public access to Oracle Park for any
26

27 ¹⁵ See <https://covid-19.acgov.org/data.page> (last viewed Oct. 15, 2020).

28 ¹⁶ See <https://data.sfgov.org/stories/s/dak2-gvuj> (last viewed Oct. 15, 2020).

1 baseball games or other events. As of mid-October 2020, the San Francisco Bay Area has had
2 more than 110,000 cases of COVID-19. Alameda County alone has had more than 22,000 cases
3 and San Francisco County more than 11,000.

4 115. By March 19, Los Angeles had experienced at least 2,122 confirmed COVID-19
5 cases and several deaths.¹⁷ On March 19, Eric Garcetti, the Mayor of Los Angeles, issued a
6 “Safer at Home Order,” which required all businesses in the county—where the Los Angeles
7 Dodgers play—to cease any operations that required in-person attendance by workers at a
8 workplace. The March 19 Los Angeles Order was issued “for the protection of life and
9 property” and stated: “This Order is given because, among other reasons, the COVID-19 virus
10 can spread easily from person to person and *is physically causing property loss or damage due*
11 *to its tendency to attach to surfaces for prolonged periods of time*” (emphasis added). The Los
12 Angeles County order prohibited access to any county venue where baseball games would be
13 played, including Dodger Stadium. On May 27, Mayor Garcetti issued a revision to the “Safer
14 at Home Order” which continued to prohibit access to venues where Major League Baseball
15 games would be played, including Dodger Stadium, and which reiterated that “the COVID-19
16 virus can spread easily from person to person and *is physically causing property loss or damage*
17 *due to its tendency to attach to surfaces for prolonged periods of time*” (emphasis added). On
18 June 1, Mayor Garcetti issued a “Safer L.A.” order which requires participants in outdoor
19 professional sports to adhere to Los Angeles County Department of Public Health Protocol for
20 Professional Sports Leagues. On June 12, the County of Los Angeles enacted protocols for
21 reopening professional sports facilities, if certain criteria and requirements were met. In so
22 doing, however, the County of Los Angeles expressly prohibited public access by spectators at
23 all professional sports facilities in the county, including Dodger Stadium. This guidance
24 remains in place, and Mayor Garcetti’s order was reissued as recently as October 4, 2020.

25 116. Anaheim, California—home of the Los Angeles Angels and Angel Stadium of
26 Anaheim and of Tickets.com—has been a COVID-19 “hot spot,” with the second highest case

27 28¹⁷ See http://dashboard.publichealth.lacounty.gov/covid19_surveillance_dashboard/ (last
viewed Oct. 15, 2020).

1 count in Orange County. Beginning in March 2020, Orange County issued a series of civil
2 authority orders because, as stated by the Chair of the Board of Supervisors (acting as the Chair
3 of Emergency Management Council), “the introduction of COVID-19 created *conditions of*
4 *extreme peril to* the safety of persons and *property* within the territorial limits of Orange
5 County” (emphasis added).¹⁸ In particular, on March 18, the Orange County Health Officer
6 issued an order prohibiting all non-essential public and private gatherings of any number of
7 people. This order (along with other impacts of the outbreak) prohibited public access to Angel
8 Stadium of Anaheim for any baseball games. On March 20, the Orange County Health Officer
9 issued a press release directing residents to follow Governor Gavin Newsom’s March 19, 2020
10 Executive Order, and consistent with the state order, directed non-essential businesses to close
11 and residents to stay at home. On March 30, the Orange County Health Officer ordered the
12 County to follow the State’s stay at home order until further notice.

13 117. By March 16, San Diego began to experience an outbreak of positive COVID-19
14 cases, with at least 50 confirmed cases in San Diego County.¹⁹ On March 16, both the Mayor of
15 San Diego and the County of San Diego issued orders that prohibited all public or private
16 gatherings of 50 or more people in a single space at one time, including stadiums. These orders
17 prohibited public access to any venue in San Diego where baseball games would be played,
18 including Petco Park, where the San Diego Padres play. On April 30, the Mayor of San Diego
19 extended the March 16 Order. The Mayor’s new order found that the restrictions in the March
20 16 Order “were and remain necessary because of the propensity of the virus to spread person to
21 person and also because *COVID-19 physically causes property loss and damage*” (emphasis
22 added). As of mid-October 2020, Southern California had more than 500,000 diagnosed cases
23 of COVID-19.

24
25 ¹⁸ See <https://occovid19.ochealthinfo.com/article/oc-health-officers-orders-recommendations> (last viewed Oct. 15, 2020).

26 ¹⁹ See
27 <https://www.arcgis.com/apps/opsdashboard/index.html#/96feda77f12f46638b984fcb1d17bd24>
28 (last viewed Oct. 15, 2020).

1 118. By March 11, more than 230 confirmed COVID-19 cases were reported in King
2 County, Washington, home to T-Mobile Park where the Seattle Mariners play.²⁰ Starting on
3 March 11, Jay Inslee, the governor of the State of Washington, issued a series of orders
4 prohibiting public gatherings due to property damage and the presence of COVID-19 and the
5 coronavirus. The Washington orders prohibited access to any venue in the state where baseball
6 is played, including T-Mobile Park. On March 11, Governor Inslee issued an order that
7 acknowledged COVID-19 “remains *a public disaster affecting life, health, property and the*
8 *public peace*” (emphasis added). The order stated that “to help preserve and maintain life,
9 health, property or the public peace,” the state was banning gatherings of 250 people or more
10 “for social, spiritual and recreational activities including, but not limited to, community, civic,
11 public, leisure, faith-based, or sporting events; parades; concerts; festivals; conventions;
12 fundraisers; and similar activities.” On March 16, Governor Inslee issued an amended order that
13 stated “it is necessary to immediately expand the restrictions on large gatherings of 250 or
14 more,” and which banned “gatherings of 50 people or more.” The amended order noted
15 COVID-19 remains “a public disaster affecting life, health, property or the public peace” and it
16 mandated certain efforts designed to alleviate “the impacts to people, *property, and*
17 *infrastructure*” (emphasis added). On March 23, Governor Inslee again amended the order,
18 banning “public and private gatherings of any number of people for social, spiritual and
19 recreational purposes.”

20 119. By March 13, at least 32 confirmed COVID-19 cases had arisen in Chicago, home
21 of the Chicago Cubs and Wrigley Field, and the Chicago White Sox and Guaranteed Rate
22 Field.²¹ In fact, two Cubs employees who were present at Wrigley Field on March 8 exhibited
23 symptoms shortly thereafter, and both eventually tested positive for COVID-19. Starting on
24 March 13, J.B. Pritzker, the governor of Illinois, issued a series of orders prohibiting public
25

26 ²⁰ See <https://www.kingcounty.gov/depts/health/news/2020/March/11-covid-19-updates.aspx> (last viewed Oct. 15, 2020).

27
28 ²¹ See <https://www.chicago.gov/city/en/sites/covid-19/home/covid-dashboard.html> (last viewed Oct. 15, 2020).

1 gatherings due to property damage and the presence of COVID-19 and the coronavirus. On
2 March 13, Governor Pritzker issued an order prohibiting gatherings of over 1,000 people,
3 including at sporting events. On March 16, Governor Pritzker issued a subsequent order
4 prohibiting gatherings of more than 50 people, including at sporting events with spectators. The
5 order also found that “frequently used surfaces in public settings . . . if not cleaned and
6 disinfected frequently and properly, also pose a risk of exposure.” By March 19, the total
7 number of confirmed COVID-19 cases had risen to 184. On March 20, Governor Pritzker
8 issued another Executive Order directing all individuals to stay at home, requiring non-essential
9 business operations to cease, and prohibiting gatherings outside of a single household or more
10 than ten people. The order applied throughout the state of Illinois and stated: “Schools and other
11 entities that provide food services . . . shall not permit the food to be eaten at the site where it is
12 provided, or at any other gathering site due to *the virus’s propensity to physically impact*
13 *surfaces and personal property*” (emphasis added). This order (along with other impacts of the
14 outbreak) prohibited public access to Wrigley Field and Guaranteed Rate Field for any baseball
15 games.

16 120. By March 24, Colorado had 1,073 confirmed COVID-19 cases.²² On March 25,
17 the Colorado Department of Public Health & Environment issued an order that implemented the
18 governor of Colorado’s stay-at-home directive. The Colorado order applied to the entire state of
19 Colorado, home of the Colorado Rockies and Coors Field. The Colorado order noted: “COVID-
20 19 also physically contributes to property loss, contamination, and damage due to its propensity
21 to attach to surface for prolonged periods of time.” This order (along with other impacts of the
22 outbreak) prohibited public access to Coors Field for any baseball games.

23 121. By March 17, Texas had at least 106 confirmed COVID-19 cases, including at
24 least six in Tarrant County, home of the Texas Rangers and Globe Life Field. On March 18,
25 Tarrant County Judge B. Glen Whitley issued an Emergency Declaration prohibiting gatherings
26 of more than 50 people and which mandated the cancellation of any larger gatherings. By
27

28 ²² See <https://covid19.colorado.gov/data> (last viewed Oct. 15, 2020).

1 March 23, Texas had at least 728 confirmed COVID-19 cases, including at least 78 cases in
2 Harris County, home of the Houston Astros and Minute Maid Park. Tarrant County had at least
3 57 confirmed cases. On March 24, Harris County issued an order requiring individuals to stay at
4 home, requiring non-essential businesses to cease all activities at facilities located within the
5 county, and generally prohibiting all public gatherings of any number of people. The order
6 specifically directed that all “stadiums” within the county “shall close.” The order stated: “The
7 COVID-19 virus causes *property loss or damage* due to its ability to attach to surfaces for
8 prolonged periods of time” (emphasis added). Also on March 24, Tarrant County issued an
9 order requiring all non-essential business to reduce to minimum basic operations and prohibiting
10 all gatherings outside of a household unit. These orders (along with other impacts of the
11 outbreak) prohibited public access to Minute Maid Park and Globe Life Field for any baseball
12 games.

13 122. By March 16, the State of New York had more than 1,300 confirmed COVID-19
14 cases, nearly half of which were confirmed in the five boroughs of New York City, along with
15 several deaths.²³ On March 16, in response to the outbreak in New York City—where the New
16 York Mets and the New York Yankees play and where several MLB Entities have offices—
17 Mayor Bill de Blasio issued Emergency Executive Order 100, in part “because *the virus*
18 *physically is causing property loss and damage*” (emphasis added). The order closed all
19 entertainment venues, regardless of size, throughout the city. The mayor’s order thus prohibited
20 public access to any venue in New York City where baseball games would be played, including
21 Yankee Stadium in the Bronx and Citi Field in Queens. Executive Order 100 was extended by
22 subsequent orders and remains in effect with some modifications in accordance with New York
23 Governor Cuomo’s Executive Orders regarding the reopening of New York State. As of July 1,
24 state guidance allowed professional sports competitions to resume, but with no live fans or
25
26

27 ²³ See <https://www.governor.ny.gov/news/governor-cuomo-announces-three-way-agreement-legislature-paid-sick-leave-bill-provide-immediate> (last viewed Oct. 15, 2020).

1 spectators during the COVID-19 Public Health Emergency. These revised civil orders thus
2 continued to prohibit public access to Yankee Stadium or Citi Field.

3 123. In addition, several states restricted or prohibited interstate travel, preventing fans
4 in one state from crossing state lines to attend games in another state.²⁴

5 124. In addition to the orders described above, many other civil orders around the
6 nation were issued as a result of physical damage.²⁵

7 125. In fact, by March 31, 2020, all of the Clubs' home ballparks and Spring Training
8 ballparks were subject to one or more civil authority orders that prohibited, impaired or
9 restricted normal stadium operations.

10 126. When these orders were issued and for some period thereafter, there was limited
11 testing capacity. Peer reviewed literature indicates that the number of actual COVID-19 cases
12 was very likely five to ten times higher than the number of confirmed cases.²⁶ The known cases,
13 along with likely cases involving pre-symptomatic or asymptomatic carriers, resulted in

14

15 ²⁴ See, e.g., Stay at Home Order, Executive Directive 010, Governor of Nevada (Mar. 21,
16 2020); The Governor's Coronavirus Directive for Utah "Stay Safe, Stay Home," Governor of
17 Utah (Mar. 27, 2020) (preventing fans in Utah and Nevada from attending games in California);
18 Executive Order No. 121, Governor of North Carolina (Mar. 27, 2020); Executive Order No. 22,
19 Governor of Tennessee (Mar. 30, 2020); Executive Order No. 1465, Governor of Mississippi
(Mar. 31, 2020); Order of the State Health Officer Suspending Certain Public Gatherings Due to
20 Risk of Infection by COVID-19, Alabama (Apr. 3, 2020) (preventing fans from states around
Georgia from attending Atlanta Braves games).

21 ²⁵ See, e.g., A Declaration of Local Disaster Emergency in and for the City of Louisville,
22 Louisville, Colorado (Mar. 15, 2020) (finding a local disaster presents "the occurrence or
imminent threat of widespread or severe damage, injury or loss of life or property resulting from
23 COVID19"); Order of the Napa County Health Officer, Napa County, California (Mar. 18,
24 2020) ("This Order is issued based on evidence of increasing occurrence of COVID-19
throughout the Bay Area, increasing likelihood of occurrence of COVID-19 within the county,
25 and the physical damage to property caused by the virus."); Emergency Order 20-03, Broward
26 County, Florida (Mar. 26, 2020) (finding COVID-19 is "physically causing property damage
due to its proclivity to attach to surfaces for prolonged periods of time"); Amended Order of
27 County Judge Clay Jenkins, Dallas County, Texas (Apr. 6, 2020) ("The virus is physically
causing property damage.").

28 ²⁶ See <https://science.sciencemag.org/content/sci/368/6490/489.full.pdf> (last viewed Oct.
15, 2020).

1 significant physical loss and damage to property in and around all 30 regular season stadiums
2 (and other facilities and locations used by the Clubs and MLB Entities), leading expressly in
3 many cases to the orders that shut down Baseball operations and now continue to prohibit or
4 substantially limit the number of fans in the stands. Each such order was the result of local
5 COVID-19 conditions and resulting property damage, which conditions also made travel
6 difficult and dangerous in and around the stadiums. These orders, and other similar orders,
7 prohibited, limited, restricted, or impaired access to the ballparks, precluding Clubs from
8 playing baseball under pre-COVID-19 conditions.

9 **C. COVID-19 Outbreaks and Government Orders Forced Baseball to Schedule
10 a Greatly Shortened 60-Game Season**

11 127. After March 16, 2020, the cascading impact of the various outbreaks and
12 government orders described above forced Baseball initially to postpone and eventually to
13 cancel all regular season games originally scheduled for March, April, May, June, and most of
14 July.

15 128. By June 2020, some civil authorities, including those in California and New York,
16 began to allow professional sports to resume on a limited basis. However, even with this limited
17 resumption, civil orders continued to either completely preclude fans from attending ballgames
18 or significantly restrict the number of fans who could attend ballgames. In fact, during the
19 regular season, most ballparks remained under civil orders that entirely prevented fans from
20 attending games.

21 129. Ultimately, the Clubs and the BOC developed plans to play a 60-game season—
22 but without fans—beginning on July 23, 2020.

23 130. Despite plans to hold a shortened regular season, Baseball was forced to cancel a
24 series of special events that had been previously been scheduled for 2020. For example, on July
25 3, the 2020 All-Star Game and related events, including the Home Run Derby, Play Ball Park,
26 the All-Star Futures Game, and the All-Star Celebrity Softball Game, were canceled due to
27 outbreaks of COVID-19 and related government orders. The 2020 All-Star Game had been
28 scheduled to take place in Los Angeles at Dodger Stadium on July 14 following five days of
pre-All Star Game events.

131. On July 23, 119 days later than originally scheduled, Baseball's 60-game 2020 regular season began with Opening Day. Because of outbreaks of COVID-19 at and around Club facilities and related government orders, Clubs held regular season games without fans in attendance.

132. The Clubs, as part of their ongoing mitigation efforts, have been investigating, and will continue to investigate, protective measures to reduce or mitigate coronavirus-related conditions in their facilities, but thus far the Clubs have not been able to resume normal stadium operations.

133. While Baseball has very recently allowed a limited number of fans to attend some Postseason games, and is confident that this plan has been carried out safely, this approach has been possible only (a) with the experience and knowledge gained over time during the pandemic, (b) at significantly reduced capacity with extraordinary protective measures designed to mitigate the physical impacts of COVID-19 and the coronavirus, and (c) in a single jurisdiction. As explained above, prior or existing civil orders, along with physical loss and damage caused by the coronavirus and COVID-19, have prevented normal fan attendance at all ballparks.

134. In addition to Baseball's inability to conduct normal stadium operations, its customers, suppliers, licensees, and others also have suffered their own physical loss or damage at their premises resulting from the coronavirus and COVID-19, and from related civil orders, which in turn led to additional substantial economic losses to Plaintiffs.

D. Baseball Has Suffered Billions in Losses

135. The cumulative impacts of these numerous outbreaks, of the loss and damage to the many insured facilities, of difficulties and dangers traveling, and of the many government orders, have been massive and continue to grow.

136. Baseball canceled more than 1,500 games. Its abbreviated 60-game 2020 schedule included only 37% of the previously-announced 162-game schedule. Before 2020, no season in Major League Baseball history had been shorter than 100 games.

1 137. In 2019, regular season income from tickets, concessions, merchandise, and other
2 in-park purchases, across all Clubs, was well into the billions of dollars. In 2020, this figure
3 dropped by billions of dollars, to almost zero.

4 138. In 2020, income from regular season ticket sales for 2020 games dropped by
5 billions of dollars to almost zero.

6 139. In 2020, income from regular season, direct or indirect sales of in-park
7 concessions during games, including food and beverage, dropped by hundreds of millions of
8 dollars, to almost zero.

9 140. In 2020, income from regular season sales of suites and luxury seat licenses for
10 2020 games dropped by hundreds of millions of dollars, to almost zero.

11 141. In 2020, income from regular season, direct or indirect sales of in-park
12 merchandise during games dropped by tens of millions of dollars, to almost zero.

13 142. In 2020, income from regular season spectator parking at games dropped by tens
14 of millions of dollars, to almost zero.

15 143. In addition to these gate and in-park losses, Baseball's income from numerous
16 other sources dropped substantially in 2020 compared to the 2019 figures. Baseball also
17 suffered losses and incurred extra expenses due to the damage caused by COVID-19 and the
18 coronavirus, including by the many government orders. The following paragraphs provide a
19 breakdown of some of these losses.

20 144. In 2020, with no regular season games for approximately four months, income
21 from sales of corporate sponsorships and related publications tied to in-park events, across all
22 Clubs, dropped by hundreds of millions of dollars.

23 145. In 2020, with no regular season games to broadcast for four months, local and
24 national media income dropped by well over a billion dollars.

25 146. In 2020, with no regular season games for four months, income generated by MLB
26 Advanced Media's businesses, including media and sponsorship-related revenue, and other
27 sources, dropped by tens of millions of dollars. Similarly, Tickets.com suffered substantial
28 losses due to the COVID-19-related cancellation of regular season games and other events.

1 147. In 2020, when facilities could not be used and some tenants stopped paying rent,
2 rental income generated by certain Clubs dropped by tens of millions of dollars.

3 148. In addition to the losses listed above, Baseball also suffered losses and incurred
4 extra expenses due to the damage caused by COVID-19 and the coronavirus, including by the
5 many government orders.

6 149. Certain Clubs also suffered losses related to non-Major League Baseball events.
7 In 2020, for example, hundreds of ticketed, non-baseball events at baseball stadiums were
8 canceled and such Clubs suffered losses in the tens of millions of dollars, including for loss of
9 rental income.

10 150. Baseball also incurred extra expenses due to the impact of the outbreaks, including
11 but not limited to COVID-19 screening and testing, housing, cleaning efforts and supplies,
12 physical and structural modifications, and extra security at closed facilities.

13 151. Baseball incurred extra expenses due to the orders largely precluding travel across
14 the American / Canadian border and the consequent need to reschedule all of the Toronto Blue
15 Jays' home games in the United States.

16 152. Baseball incurred very substantial crisis management expenses in connection with
17 the shutdown and partial reopening of Baseball.

18 153. Notwithstanding the interruption of business, Baseball continued to incur fixed
19 costs associated with baseball operations, and many Plaintiffs were required to continue to pay
20 rent on leased properties, among other fixed expenses.

21 154. The Plaintiffs have also incurred Claims Preparation Costs.

22 155. In addition to the above losses, Baseball suffered other losses and incurred
23 expenses due to physical loss and damage caused by COVID-19, all of which are covered by the
24 All Risks Policies.

25 **V. THE POLICIES COVER BASEBALL'S LOSSES**

26 156. Each Plaintiff, including all 30 Clubs, the BOC, MLB Advanced Media, the MLB
27 Network, and Tickets.com, is insured under the All Risks Policies. Each stadium and each of
28

1 the properties at which each Plaintiff is seeking insurance coverage for its losses is an insured
2 location under those Policies.

3 157. Each Plaintiff suffered the actual physical loss and damage of property insured by
4 the Policies.

5 158. Each Plaintiff has sustained actual losses and incurred extra expenses as a result of
6 cases of COVID-19, the coronavirus, and related government orders. These losses and expenses
7 arose out of numerous discrete events, at different times, in different locations, and under
8 different circumstances.

9 159. Plaintiffs gave timely notice of their claims and have satisfied, are excused from
10 performing, or the Insurers have waived or are estopped from insistence upon performance of,
11 all conditions of the All Risks Policies, including but not limited to payment of required
12 premiums, provision of timely notice of claim, and submission of a Proof of Loss. A summary
13 of some of the implicated coverages follows.

14 A. **Each Plaintiff Has Suffered Insured Physical Loss or Damage**

15 160. Each of the All Risks Policies “insures [“Real Property” and “Personal Property”],
16 unless otherwise excluded” against **“ALL RISKS OF PHYSICAL LOSS OR DAMAGE,**
17 except as ... excluded.” (Emphasis added.) Each Plaintiff has suffered physical loss and
18 damage to facilities insured by the All Risks Policies as a result of one or more covered risks,
19 not excluded by the All Risks Policies, as described more fully herein.

20 161. The coronavirus and coronavirus-containing respiratory droplets and nuclei are
21 physical substances that are active on physical surfaces and are also emitted into the air. Such
22 substances are not theoretical, informational, or incorporeal, but rather have a material existence
23 and are physically dangerous.

24 162. Individuals with COVID-19 or otherwise carrying the coronavirus have been
25 physically present at the insured facilities of each Club and nearly all MLB Entities.
26 Coronavirus-containing fomites (*i.e.*, inanimate objects), respiratory droplets, and nuclei from
27 those individuals come into contact with, adhere to, and attach to the surfaces of the property

1 upon which they land, including without limitation, the real property, fixtures and personal
2 property at insured facilities.

3 163. Coronavirus or coronavirus-containing fomites, respiratory droplets, and nuclei
4 physically alter property to which they adhere, attach or come in contact including without
5 limitation by altering the surfaces of that property and/or by making physical contact with those
6 previously safe, inert materials dangerous.

7 164. When individuals carrying the coronavirus breathe, talk, cough, or sneeze, they
8 expel aerosolized droplet nuclei that remain in the air and, like dangerous fumes, make the
9 premises unsafe and affirmatively dangerous. In addition, the coronavirus physically alters the
10 air. Air inside buildings that was previously safe to breathe, but can no longer safely be
11 breathed due to coronavirus and COVID-19, has undergone a physical alteration.

12 165. The presence of the coronavirus and COVID-19, including but not limited to
13 coronavirus droplets or nuclei on solid surfaces and in the air at insured property, has caused and
14 will continue to cause direct physical damage to physical property and ambient air at the
15 premises. Coronavirus, a physical substance, has attached and adhered to Plaintiffs' property,
16 and by doing so, altered that property. Such presence has also directly resulted in loss of use of
17 those facilities.

18 166. One or more players, coaches, staff and/or employees associated with every Club
19 have tested positive for COVID-19, the disease caused by the coronavirus, on various dates and
20 at various locations during 2020. Persons who tested positive for COVID-19 were present at
21 insured property on various dates during 2020. Persons who came into contact with persons
22 diagnosed with COVID-19 were present at insured property on various dates during 2020.

23 167. On information and belief, persons who were pre-symptomatic or asymptomatic
24 and unknowingly carrying the coronavirus, including but not limited to players, coaches, staff,
25 and employees, were present at insured property on various dates during 2020.

26 168. Coronavirus droplets have been conveyed from infected persons (whether
27 symptomatic, pre-symptomatic, or asymptomatic) to solid surfaces, including but not limited to
28 furniture, doors, floors, elevator buttons, bathroom facilities, lockers, equipment, and supplies,

1 and into the air and HVAC systems at insured property, causing damage and alteration to
2 physical property and ambient air at the premises. Aerosolized coronavirus has entered the air
3 in Plaintiffs' facilities.

4 169. Each Plaintiff has sustained actual loss, including but not limited to substantial
5 sums spent to remediate physical damage to its property, such as for cleaning and disinfecting
6 premises, repairing or replacing air filtration systems, remodeling and reconfiguring physical
7 spaces, and other measures to reduce or eliminate the presence of the coronavirus on its
8 property. Such remediation measures have been ongoing because of the continuous and
9 repeated recurrence of the coronavirus while the pandemic persists.

10 170. In addition to physical damage, each Plaintiff's insured property has also suffered
11 physical loss. The on-site coronavirus, fomites, and respiratory droplets or nuclei containing the
12 coronavirus have attached to and deprived each Plaintiff of the physical use of their insured
13 properties by making them unsafe and unusable and thereby lost.

14 171. These physical losses to each Plaintiff's insured properties include without
15 limitation the rendering of its insured property from a satisfactory state to a state dangerous
16 and/or unsatisfactory for use because of the fortuitous presence and effect of the coronavirus,
17 fomites, and respiratory droplets or nuclei directly upon the property.

18 172. These physical losses to each Plaintiff's insured properties include without
19 limitation the physical loss of the ability to use Plaintiff's properties for their primary functions.

20 173. The losses and damages to Plaintiffs' insured properties also include, among many
21 other things, the following incidents.

22 174. In March 2020, an Oakland Athletics' employee who subsequently tested positive
23 for COVID-19 was present at the Athletics' Spring Training facility. As a result, the Athletics'
24 Spring Training facility suffered physical loss and damage.

25 175. In March 2020, employees of the San Francisco Giants who subsequently tested
26 positive for COVID-19 had been present at the Giants' stadium, Oracle Park. In July 2020,
27 several other individuals associated with the San Francisco Giants who subsequently tested
28

1 positive for COVID-19 were present at Oracle Park. As a result, Oracle Park suffered physical
2 loss and damage.

3 176. In June, July, and August 2020, multiple members of the Los Angeles Dodgers'
4 organization who subsequently tested positive for COVID-19 were present at Dodger Stadium.
5 As a result, Dodger Stadium suffered physical loss and damage.

6 177. During 2020, individuals with COVID-19 have been present at the Los Angeles
7 Angels' facilities. As a result, the Angels' facilities suffered physical loss and damage.

8 178. During 2020, individuals with COVID-19 have been present at the San Diego
9 Padres' facilities. As a result, the Padres' facilities suffered physical loss and damage.

10 179. In March 2020, two employees of the Chicago Cubs who subsequently tested
11 positive for COVID-19 were present at the Cubs' stadium, Wrigley Field. As a result, Wrigley
12 Field suffered physical loss and damage.

13 180. In March 2020, employees of the New York Mets who subsequently tested
14 positive for COVID-19 were present at Mets facilities, including Citi Field. In June and July,
15 multiple players and employees for the Mets who subsequently tested positive for COVID-19
16 were present at Citi Field and other Mets facilities. As a result, the Mets' facilities, including
17 Citi Field, suffered physical loss and damage.

18 181. In March 2020, at least two employees of the St. Louis Cardinals who
19 subsequently tested positive for COVID-19 were present at Cardinals' facilities. In July and
20 August 2020, multiple players and staff members for the St. Louis Cardinals who subsequently
21 tested positive for COVID-19 were present at the Cardinals' facilities. As a result, the
22 Cardinals' facilities suffered physical loss and damage.

23 182. In June 2020, several members of the Arizona Diamondbacks' organization who
24 subsequently tested positive for COVID-19 were present at the Diamondbacks' Spring Training
25 facility. Also in June, a member of the Diamondbacks' organization who subsequently tested
26 positive for COVID-19 was present at the Diamondbacks' stadium, Chase Field. As a result, the
27 Diamondbacks' facilities, including Chase Field, suffered physical loss and damage.

1 183. In June 2020, multiple players for the Seattle Mariners who subsequently tested
2 positive for COVID-19 were present at the Mariners' facilities. As a result, the Mariners'
3 facilities suffered physical loss and damage.

4 184. In June 2020, at least one player for the Cleveland Indians who subsequently
5 tested positive for COVID-19 was present at the Club's Spring Training facility. As a result, the
6 Club's Spring Training facility suffered physical loss and damage.

7 185. In June 2020, multiple members of the Toronto Blue Jays organization who
8 subsequently tested positive for COVID-19 were present at the Blue Jays' Spring Training
9 facility. In addition, in July 2020, at least one member of the Blue Jays organization who
10 subsequently tested positive for COVID-19 was present at the Toronto Blue Jays' stadium,
11 Rogers Centre. As a result, both the Blue Jays' Spring Training facility and Rogers Centre
12 suffered physical loss and damage.

13 186. In July 2020, a player for the Kansas City Royals who subsequently tested positive
14 for COVID-19 was present at the Royals' stadium, Kauffman Stadium. As a result, Kauffman
15 Stadium suffered physical loss and damage.

16 187. In June 2020, several members of the Detroit Tigers' organization who
17 subsequently tested positive for COVID-19 were present at the Tigers' Spring Training facility
18 in Florida. In July, four players for the Detroit Tigers who subsequently tested positive for
19 COVID-19 were present at the Tigers' Comerica Park facility in Detroit. As a result, the Tigers'
20 facilities suffered physical loss and damage.

21 188. In July 2020, the Minnesota Twins played a home game against the St. Louis
22 Cardinals at the Twins' stadium, Target Field. Two players for the visiting Cardinals tested
23 positive for COVID-19. As a result, Target Field suffered physical loss and damage.

24 189. In July 2020, several employees of the Texas Rangers who tested positive for
25 COVID-19 were present at the Rangers' stadium, Globe Life Field. As a result, Globe Life
26 Field suffered physical loss and damage.

1 190. In July 2020, a player for the Washington Nationals who tested positive for
2 COVID-19 was present at Nationals Park. As a result, Nationals Park suffered physical loss and
3 damage.

4 191. In July 2020, five players for the Atlanta Braves and multiple members of the
5 visiting Miami Marlins who tested positive for COVID-19 were present at the Braves' facilities.
6 As a result, these Braves' facilities suffered physical loss and damage.

7 192. In July 2020, two individuals associated with the Baltimore Orioles who tested
8 positive for COVID-19 were present at the Orioles' facilities. As a result, these Orioles'
9 facilities suffered physical loss and damage.

10 193. In July 2020, a player for the Boston Red Sox who tested positive for COVID-19
11 was present at Red Sox facilities. As a result, the Red Sox facilities suffered physical loss and
12 damage.

13 194. In July 2020, multiple players for the Chicago White Sox who tested positive for
14 COVID-19 were present at White Sox facilities. As a result, the White Sox facilities suffered
15 physical loss and damage.

16 195. In July 2020, one member of the Philadelphia Phillies' staff and multiple members
17 of the visiting Miami Marlins who tested positive for COVID-19 were present at the Phillies'
18 stadium, Citizens Bank Park. As a result, Citizens Bank Park suffered physical loss and
19 damage.

20 196. In July 2020, at least one player for the Tampa Bay Rays who tested positive for
21 COVID-19 was present at the Rays' stadium, Tropicana Field, and in August a Rays staffer
22 tested positive one day after working at the stadium. As a result, Tropicana Field suffered
23 physical loss and damage.

24 197. In July 2020, a player for the New York Yankees who tested positive for COVID-
25 19 was present at Yankee Stadium. As a result, Yankee Stadium suffered physical loss and
26 damage.

198. In July and August 2020, numerous members of the Miami Marlins organization and visiting members of the Mets organization who tested positive for COVID-19 were present at the Marlins' facilities. As a result, the Marlins' facilities suffered physical loss and damage.

199. In August 2020, a player for the Cincinnati Reds who tested positive for COVID-19 was present at the Reds' stadium, Great American Ball Park. As a result, Great American Ball Park suffered physical loss and damage.

200. In August 2020, an individual who tested positive for COVID-19 was present at the Houston Astros' stadium, Minute Maid Park. Also in August, the Houston Astros learned that an individual who tested positive for COVID-19 had been present at another Houston Astros facility, forcing the Houston Astros to shut down the facility. As a result, the Astros' facilities suffered physical loss and damage.

201. In August 2020, two players and a staff member for the Milwaukee Brewers who tested positive for COVID-19 were present at a Brewers' facility. As a result, the Brewers' facility suffered physical loss and damage.

202. In July and August 2020, several players and staff affiliated with the Pittsburgh Pirates who tested positive for COVID-19 were present at the Pirates' stadium, PNC Park. As a result, PNC Park suffered physical loss and damage.

203. In September 2020, an employee of the Colorado Rockies who tested positive for COVID-19 was present at the Rockies' stadium, Coors Field. As a result, Coors Field suffered physical loss and damage.

204. In addition to the above examples, between February 1 and the date of filing of this complaint, many of the MLB Entities had individuals present at their facilities who tested positive for COVID-19, or were otherwise contagious with respect to COVID-19. As a result, those facilities suffered physical loss and damage.

205. The Plaintiffs' losses arising from physical loss and damage fall within many different coverage grants of the All Risks Policies.

B. Each Plaintiff Has Suffered Insured Time Element Loss

206. Each of the All Risks Policies “insures TIME ELEMENT loss … directly resulting from physical loss or damage of the type insured[] to” “Real Property” and “Personal Property.” Baseball’s financial losses arising from COVID-19-related physical losses and damages, and the inability to physically use Club and MLB Entity facilities, are losses covered by the Time Element coverages in the All Risks Policies.

207. TIME ELEMENT loss includes either the insured's lost "GROSS EARNINGS" (i.e., its gross earnings less certain variable expenses plus all other earnings) during the Period of Liability and Extended Period of Liability or its lost "GROSS PROFIT" (i.e., its reduction in sales and increase in the cost of doing business) during the 12-month period after the loss or damage to its property. The All Risks Policies allow Plaintiffs to choose between GROSS EARNINGS and GROSS PROFIT to measure their losses.

208. As shown in Section V.A above, each Plaintiff has suffered direct physical loss and damage of the type insured under the All Risks Policies to property insured by the All Risks Policies.

209. As explained in paragraphs 105 through 155 above, a direct result of the insured direct physical loss and damage to its insured properties was that each Plaintiff sustained losses of gross earnings, additional operational expenses, loss of other operational earnings, losses of gross profits, diminished sales, extra expenses, increases in the cost of doing business, crisis management expenses, claim preparation costs, leasehold and rental insurance losses, and other covered losses.

210. Although each Plaintiff has sought to mitigate losses where possible, each Plaintiff has been unable to materially reduce its Time Element losses through the use of property or services owned or controlled by the Plaintiff, the use of property or services obtainable from other sources, working extra time or overtime, or the use of inventory.

211. Each Plaintiff's Time Element losses are ongoing and likely to persist.

212. Each Plaintiff has incurred reasonable and necessary extra expenses to temporarily continue as nearly normal as practicable the conduct of its business due to the suspension of

1 operations, including but not limited to extra expenses for COVID-19 screening and testing,
2 housing, cleaning supplies, physical and structural modifications, extra security at closed
3 facilities, and other operational changes.

4 213. For example, the San Francisco Giants instituted stringent protocols for cleaning
5 and disinfection at Oracle Park. Among other things, the club established sanitation checkpoints
6 throughout the park and utilized electrostatic sprayers to regularly disinfect park entrances and
7 lobbies, stairwells, restrooms, elevators, clubhouses, weight and training facilities, dining areas,
8 press box, conference rooms, lockers, break rooms and offices.

9 214. As another example, the Toronto Blue Jays were forced to play their home games
10 at a stadium in Buffalo, New York, after the issuance of Canadian governmental orders in regard
11 to cross-border travel and quarantine requirements that would have restricted players and Club
12 staff members from traveling to Canada to play games in Toronto. As a result, Plaintiffs
13 incurred substantial expenses to renovate the Buffalo stadium in order to host Major League
14 games as well as other expenses necessary to remain in business.

15 215. Each Plaintiff's extra expenses are other than those that usually would have been
16 incurred in conducting its business during the same period had no physical loss or damage
17 occurred.

18 **C. Each Plaintiff Has Sustained Actual Losses and Incurred Extra Expenses
19 Insured by the All Risks Policies' Civil Authority Coverage**

20 216. Two of the All Risks Policies (issued by Factory Mutual and Interstate) cover "the
21 Actual Loss Sustained and EXTRA EXPENSE incurred by the Insured ... if an order or civil or
22 military authority limits, restricts, prohibits partial or total access to an insured **location**
23 provided such order is the direct result of physical damage of the type insured at the insured
24 location or within ten statute miles ... of it." The third All Risks Policy (issued by AIG)
25 provides that such orders may result from physical loss or damage and will trigger coverage
26 where they "impair[] access" to insured property.

27 217. Each Plaintiff has sustained actual loss and incurred EXTRA EXPENSES because
28 one or more governmental orders have limited, restricted or prohibited partial or total access to
that insured's insured locations, or impaired access to, such locations.

1 218. The governmental orders limiting, restricting, prohibiting, or impairing access to
2 each insured's insured locations have all been issued as a direct result of, among other things,
3 physical loss or damage caused by the coronavirus and COVID-19 either at insured locations or
4 within ten statute miles thereof. Such physical loss and damage is of the type insured by the All
5 Risks Policies generally as well as by the Communicable Disease and Crisis Management
6 provisions specifically.

7 219. The coronavirus and COVID-19 have caused physical harm, damage and injury to
8 many people, including many people within ten miles of insured locations. In addition, each
9 governmental order described in paragraphs 112 through 126 above is the direct result of,
10 among other things, physical loss and damage at or within ten statute miles of each Plaintiff's
11 insured properties, including but not limited to physical damage caused by the physical presence
12 of and/or structural damage caused by the coronavirus on furniture, doors, floors, bathroom
13 facilities, lockers, dugouts, equipment, and supplies; and in the air within locker rooms, dugouts,
14 practice facilities, playing facilities, offices, restrooms, shops, and HVAC systems at the insured
15 property.

16 220. Numerous outbreaks of COVID-19 have also led to numerous discrete events of
17 physical loss and damage at or within ten miles of insured locations, and those damages have in
18 turn led to numerous discrete governmental orders limiting, restricting, impairing or prohibiting
19 access to insured locations. Certain governmental orders that purport to prevent against future
20 proliferation of the coronavirus and future transmission of COVID-19 are the direct result of
21 physical loss and damage of the type insured. Such physical loss and damage is of the type
22 insured by the All Risks Policies generally as well as by the Communicable Disease and Crisis
23 Management provisions specifically.

24 221. As set forth in Section IV.B above, state and local authorities in each city and/or
25 state where a Plaintiff's property is located have issued orders that impair, limit, restrict or
26 prohibit partial or total access to insured property. An appendix listing certain of the applicable
27 Orders of Civil Authority by date and location is attached hereto as Exhibit D.

1 222. Each Plaintiff has sustained actual losses due to the Orders of Civil Authority
2 described in Section IV.B above.

3 223. Each Plaintiff has incurred reasonable and necessary extra expenses, due to the
4 Orders of Civil Authority described in Section IV.B above, to temporarily continue as nearly
5 normal as practicable the conduct of its business.

6 224. Each Plaintiff's extra expenses due to Orders of Civil Authority are other than
7 those that usually would have been incurred in conducting its business during the same period
8 had no physical loss or damage occurred.

9 **D. Each Plaintiff Has Sustained Actual Losses and Incurred Extra Expenses
10 Insured by the All Risks Policies' Ingress/Egress Coverage**

11 225. The All Risks Policy issued by Factory Mutual and the All Risks Policy issued by
12 Interstate each "covers the Actual Loss Sustained and EXTRA EXPENSE incurred ... due to the
13 necessary interruption of the Insured's business due to partial or total physical prevention of
14 ingress to or egress from an insured location, whether or not the premises or property of the
15 Insured is damaged, provided that such prevention is a direct result of physical damage of the
16 type insured to the property of the type insured." The All Risks Policy issued by AIG provides
17 substantially similar coverage "when in connection with or following direct physical damage of
18 the type insured, access to or egress from property of the type insured is impaired, whether or
19 not the premises or property of the Insured is damaged, provided that such prevention is within
20 ten (10) state miles of the insured location and is a direct result of physical damage of the type
21 insured to property of the type insured."

22 226. As explained in paragraphs 85 through 104 above, the coronavirus, fomites, and
23 respiratory droplets or nuclei adhere and attach to common materials, thereby structurally
24 altering those materials, physically changing them from inert to dangerous and unsafe. This
25 process impairs and physically damages the materials and the property in question.

26 227. In communities in which outbreaks of COVID-19 occurred, such damage was
27 widespread and—in addition to numerous individuals harmed, damaged and injured—affected,
28 among other things, real and personal property necessary for travel to, access and ingress to, and
egress from Baseball facilities.

228. The widespread presence of the coronavirus, fomites, and respiratory droplets or nuclei and widespread presence of damaged property during these outbreaks made traveling to, entering, traveling from or leaving Plaintiffs' facilities significantly more dangerous and unsafe.

229. The widespread presence of the coronavirus, fomites, and respiratory droplets or nuclei and widespread presence of physical damage during these outbreaks made traveling to, entering, traveling from or leaving Plaintiffs' facilities significantly more difficult and arduous.

230. As a result of COVID-19 outbreaks within the vicinity of each affected Insured location, including within ten miles of each affected insured location, it became difficult and dangerous to travel to or from Plaintiffs' facilities. The foregoing partially or totally prevented ingress to and egress from, and impaired access to and egress from, those facilities.

231. As a result of these partial or total preventions or impairments of ingress to and egress from Plaintiffs' facilities, the operations and business of each Plaintiff were interrupted.

232. Each Plaintiff has sustained actual losses and has incurred extra expenses due to the necessary interruption of its business because of the partial or total physical prevention and impairment of ingress to or egress from insured property as a result of physical damage to the type insured by the policy (including, *inter alia*, the actual presence of communicable disease) to property of the type insured by the policy (real and other property).

233. Each Plaintiff's extra expenses due to prevention of ingress/egress are other than those that usually would have been incurred in conducting business during the same period had no physical loss or damage occurred.

E. Plaintiffs Have Sustained Actual Loss Insured by the All Risks Policies' Coverage for Leasehold Interest and Rental Insurance

234. Several Plaintiffs have sustained actual loss of rental income for leases at properties that have become wholly or partially untenantable or unusable due to the coronavirus and COVID-19 and related civil orders.

235. Several Plaintiffs have sustained actual loss of rental income due to COVID-19, including but not limited to the fair rental value of properties they occupy, reasonably expected rental income from unoccupied or unrented portions of properties, and rental income from the rented portions of such property under leases, contracts or agreements in force at the time of the

1 loss. Several Plaintiffs have also sustained losses in the form of rent paid for facilities they have
2 been unable to use because of orders, physical damage, or physical loss, as described more fully
3 above.

4 **F. Each Plaintiff Has Sustained Actual Loss and Incurred Extra Expense
5 Insured by the All Risks Policies' Coverage for Contingent Time Element
6 Locations**

7 236. Each Plaintiff has sustained actual loss and has incurred extra expense directly
8 resulting from physical loss or damage of the type insured to property of the type insured at
9 locations of direct customers (such as fans who would otherwise attend baseball games),
10 suppliers, contract manufacturers or contract service providers, and/or companies under a
11 royalty, licensing fee or commission agreement—including physical loss or damage due to the
12 presence of the coronavirus, time element losses and extra expense due to orders of civil
13 authority, and time element losses and extra expense due to prevention of ingress/egress. The
14 affected contingent time element locations include, but are not limited to, (a) the locations of
15 fans who were ordered to shelter in place or quarantine because of the presence of the
16 coronavirus and COVID-19 and resulting physical loss and damage, and (b) the locations of
17 suppliers, contract manufacturers, and other entities listed in the preceding sentence, who were
18 also affected by the presence of the coronavirus and COVID-19 and the resulting physical loss
and damage.

19 237. Each Plaintiff has taken reasonable and necessary steps to mitigate the contingent
20 time element loss.

21 **G. Each Plaintiff Has Sustained Actual Loss and Incurred Extra Expense
22 Insured by the AIG Policy's Crisis Management Coverage**

23 238. The AIG Policy includes a coverage extension for CRISIS MANAGEMENT,
24 which covers each Plaintiff's losses and extra expenses when there is an interruption or
25 interference with business of the Insured as a consequence of either infectious or contagious
26 disease contracted or manifested by any person while on the premises of the Insured, or the
27 closing of all or part of the insured premises by order of a competent public authority

1 consequent upon the actual or suspected existence or threat of hazardous conditions at premises
2 of the Insured.

3 239. The AIG Crisis Management coverage provision is additional coverage under the
4 AIG Policy only, and it is subject to a sub-limit of \$10 million; however, this sub-limit is not
5 subject to any aggregate limit and instead applies on a “per occurrence” basis. This coverage
6 grant does not provide, or purport to provide, the AIG Policy’s sole or exclusive coverage for
7 loss or damage relating to or resulting from communicable disease or from the other causes
8 noted therein.

9 240. Many Plaintiffs have sustained actual loss and have incurred extra expense for
10 crisis management due to the interruption or interference with their business as a consequence of
11 infectious or contagious disease contracted or manifested by any person while on the premises
12 of the Plaintiff, including but not limited to players, coaches, and staff who contracted COVID-
13 19, the disease caused by the coronavirus.

14 241. Each Plaintiff has sustained actual loss and has incurred extra expense for crisis
15 management due to the interruption or interference with its business as a consequence of closing
16 of the whole or part of the Plaintiff’s insured property by order of a competent public authority
17 consequent upon the existence or threat of hazardous conditions, including but not limited to the
18 actual or suspected existence or threat of the coronavirus, at insured property.

19 242. Each Plaintiff’s extra expenses incurred due to crisis management are other than
20 those that usually would have been incurred in conducting Plaintiff’s business during the same
21 period had no physical loss or damage occurred.

22 **H. Each Plaintiff Has Suffered Physical Loss or Damage to Its Insured Property,
23 Sustained Actual Loss and Incurred Extra Expense Insured by the All Risks
24 Policies’ Communicable Disease Coverages**

25 243. The All Risks Policies define “communicable disease,” in pertinent part, as a
26 disease which is transmissible from human to human by direct or indirect contact with an
affected individual or the individual’s discharges.

27 244. Each Policy extends coverage to COMMUNICABLE DISEASE RESPONSE
28 COSTS at any insured location that has the actual presence of communicable disease and to

1 which access has been limited, restricted or prohibited for more than 48 hours by an order of an
2 authorized governmental agency regulating the presence of communicable disease or a decision
3 of an Officer of the Insured. Communicable disease response costs include cleanup, removal
4 and disposal of communicable diseases from insured property, fees paid to public relations
5 services, and costs of using the Insured's employees for reputation management.

6 245. The Factory Mutual and Interstate All Risks Policies include a coverage extension
7 for INTERRUPTION BY COMMUNICABLE DISEASE, which covers losses and extra
8 expense regarding any insured location that has the actual presence of communicable disease
9 and to which access has been limited, restricted or prohibited for more than 48 hours by an order
10 of an authorized governmental agency regulating the presence of communicable disease or a
11 decision of an Officer of the Insured, such as the Commissioner or any pertinent Club official.

12 246. The Communicable Disease Coverages are Additional Coverage Extensions,
13 designed to supplement, not to supplant, other coverages provided under the All Risks Policies.

14 247. Nowhere do the All Risks Policies state that the Communicable Disease Coverage
15 is the sole and exclusive coverage that applies to loss or damage related to communicable
16 disease, or that the All Risks Policies' other coverages do not apply if the Communicable
17 Disease Coverage is also triggered.

18 248. One or more players, coaches, staff and/or employees associated with all 30 Clubs,
19 and one or more individuals associated with all of the MLB Entities, have tested positive for
20 COVID-19, the disease caused by the coronavirus, on various dates between February 1, 2020
21 and the date of filing of this complaint.

22 249. Persons carrying the communicable disease COVID-19, including but not limited
23 to baseball players, coaches, staff, and/or employees who tested positive for COVID-19, were
24 actually present at one or more insured properties on various dates between February 1, 2020
25 and the date of filing of this complaint.

26 250. On information and belief, pre- and asymptomatic persons carrying the
27 communicable disease COVID-19 were actually present at one or more insured properties on
28 various dates between February 1, 2020 and the date of filing of this complaint.

251. By decision of an officer of each Plaintiff or by order of authorized governmental agency, access to one or more insured properties of each Plaintiff, including every Major League Baseball stadium in the United States and Canada, was limited, restricted, or prohibited as a result of the actual presence of the disease COVID-19 at insured property for a period of more than 48 hours.

252. Each Plaintiff has sustained actual loss and incurred extra expense during the period when its insured property was inaccessible due to the actual presence of COVID-19 on the property. Such extra expenses were other than those that usually would have been incurred in conducting Plaintiff's business during the same period had no loss occurred.

253. Each Plaintiff incurred reasonable and necessary costs for the cleanup, removal and disposal of the actual presence of the communicable disease COVID-19, including the cleanup, removal and disposal of materials contaminated with the coronavirus, which is the virus that causes the communicable disease COVID-19.

254. Each Plaintiff incurred reasonable and necessary costs for public relations and related services resulting from the presence of COVID-19 on insured property.

I. Each Plaintiff Has Incurred Costs and Has Sustained Actual Loss to Protect and Preserve Insured Property

255. Each Plaintiff has incurred reasonable and necessary costs for actions to temporarily protect or preserve insured property due to actual or to prevent immediately impending physical loss or damage from the coronavirus and COVID-19 to such insured property.

256. Each Plaintiff has sustained actual loss during the period beginning 48 hours before and lasting until 48 hours after the need to take reasonable action for the temporary protection and preservation of property insured by the Policies to prevent impending physical loss or damage to such property, including the cost of closing stadiums, protecting and preserving property at stadiums, and ensuring that stadium property is not damaged by the coronavirus or COVID-19.

J. Plaintiffs' Losses Trigger Other Coverages

257. In addition to the losses and coverages described above, Plaintiffs' COVID-19 losses are covered under any and all other coverages under the All Risks Policies that may apply. These include but are not limited to Claims Preparation Cost coverage.

K. No Exclusion Bars Coverage of Plaintiffs' Losses and Damages

258. The Policies contain no exclusions that would apply to preclude or limit coverage for Baseball's losses.

259. None of the exclusions contained in the All Risks Policies preclude coverage for losses or damage due to communicable disease, including COVID-19, or due to the virus that causes COVID-19.

260. The exclusions contained in the All Risks Policies do not preclude coverage for losses or damage arising out of the prohibition, limitation, restriction, or impairment of access to property under orders of civil authority issued due to physical damage, including physical damage to people, caused by COVID-19 and the coronavirus.

261. None of the All Risks Policies contains a virus exclusion outside the context of “contamination.”

262. The Insurers were aware of and had available to them broad language purporting to exclude property losses and business interruption losses caused by or resulting from viruses. For example, the Insurers were aware of and had available to them, since at least 2006, the Insurance Services Office's explicit virus exclusion, which states: "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" (the "ISO Virus Exclusion"). On information and belief, one or more of the Insurers or affiliates of one or more of the Insurers were involved in the drafting of this ISO Virus Exclusion and the presentation of this ISO Virus Exclusion to state regulators for approval in or around 2006. But the Insurers chose to include Communicable Disease coverage and not to include the ISO Virus Exclusion in the All Risks Policies.

263. The Policies contain an exclusion for “contamination” that states in relevant part:

1 D. This Policy excludes the following unless directly resulting
2 from other physical damage not excluded by this Policy:

3 1) contamination, and any cost due to contamination including
4 the inability to use or occupy property or any cost of making
5 property safe or suitable for use or occupancy. If contamination due
6 only to the actual not suspected presence of contaminant(s) directly
7 results from other physical damage not excluded by this Policy, then
8 only physical damage caused by such contamination may be insured.
9 This exclusion D1 does not apply to radioactive contamination
10 which is excluded elsewhere in this Policy. (Emphasis added.)

11 264. The Policies define “contamination” as “any condition of property due to the
12 actual or suspected presence of any foreign substance, impurity, pollutant, hazardous material,
13 poison, toxin, pathogen or pathogenic organism, bacteria, virus, disease causing or illness
14 causing agent, fungus, mold or mildew.”

15 265. The All Risks Policies’ contamination exclusion refers to “virus” and to “disease
16 causing or illness causing agent,” but not to communicable disease, which is expressly covered
17 by the Policies.

18 266. The All Risks Policies’ contamination exclusion contains an express exception for
19 losses, such as losses from COVID-19 or related civil orders, that result from physical damage
20 that does not fall within one of the Policies’ other exclusions.

21 267. The Policies’ contamination exclusion on its face expressly applies to “costs” but
22 makes no mention of “losses.” Nearly all of Plaintiff’s losses under the All Risks Policies are
23 “losses” as that term is used in the All Risks Policies, and not “costs” as that term is used in the
24 All Risks Policies.

25 268. The All Risks Policies’ contamination exclusion, where it applies, pertains to
26 “conditions of property” or cost-based claims. The exclusion does not apply to time element
27 losses and extra expenses, including but not limited to losses and expenses due to civil authority
28 orders, impairment of ingress or egress, crisis management, or interruption by communicable
 disease.

1 269. Accordingly, the All Risks Policies' contamination exclusion does not apply to the
2 losses that are the subject of the coverage claim in this lawsuit.

3 270. In addition, costs, damages or losses "directly resulting from other physical
4 damage not excluded by [the] Policy," including without limitation those costs, damages or
5 losses described above, are exempt from the operation of the exclusion.

6 271. The Interstate Policy also contains an endorsement with a "Pollution
7 Contamination Exclusion" that purports to bar coverage for the "release, migration, discharge,
8 escape or dispersal" of "contaminants." However, the Interstate Policy's Pollution
9 Contamination Exclusion does not apply to the spread or presence of contaminants or disease.

10 272. The Interstate Policy endorsement defines "contaminants" in terms of traditional
11 environmental pollutants and other substances that can be dispersed or released like an
12 environmental pollutant:

13 In this exclusion B, the capitalized term "Contaminants" means
14 "materials that may be harmful to human health and include any
15 impurity, pollutant, poison, toxin, pathogen or pathogenic organism,
16 disease-causing or illness-causing agent, asbestos, dioxin,
17 polychlorinated biphenyls, agricultural smoke, agricultural soot,
18 vapor, fumes, acids, alkalis, bacteria, virus, and hazardous
19 substances as listed in the Federal Water Pollution Control Act,
 Clean Air Act, Resource Conservation and Recovery Act of 1976,
 Toxic Substances Control Act, or as designated by the United States
 Environmental Protection Agency or any other local governmental
 agency."

20 273. None of the Plaintiffs' COVID-19 losses involves traditional environmental
21 pollution, which is the focus of this endorsement, and for this reason, among others, this
22 endorsement does not apply to Plaintiffs' losses.

23 274. None of the other exclusions in the All Risks Policies applies to or bars coverage
24 for Plaintiffs' losses.

25 **VI. DESPITE BASEBALL'S TIMELY CLAIMS FOR COVERAGE, THE INSURERS
26 REFUSED TO PAY IN ACCORDANCE WITH THEIR CONTRACTUAL
27 PROMISES**

28 275. On March 18, 2020, the First Report of Loss was provided to all three Insurers, as
well as its broker, Marsh, and the Insurers' adjuster, Sedgwick, on behalf of all Plaintiffs. This

1 First Report of Loss listed the date of loss as March 13, 2020, and listed Loss Locations as
2 COVID-19 - NY Yankees Spring Training Camp - Tampa, FL, and NY Yankees - Minor
3 League Spring Training Camp, Tampa, FL.

4 276. On March 27, 2020, the First Report of Loss was amended to include all of
5 Baseball.

6 277. Between March 27 and April 17, 2020, Baseball notified the insurers of at least six
7 additional occurrences involving discrete events of physical loss or damage at insured locations
8 of the Cincinnati Reds, the St. Louis Cardinals, the Chicago Cubs, the Oakland Athletics, the
9 New York Mets, and the Washington Nationals.

10 278. On April 23, 2020, Baseball sent the Insurers a letter stating its claims on behalf of
11 all insureds, including each Club and the BOC.

12 279. On May 1, 2020, the Insurers' claim adjuster, Sedgwick, responded that "several
13 issues" exist regarding the claim and the terms and conditions of the All Risks Policies, and
14 advised that the Insurers would reserve their rights to deny coverage.

15 280. The May 1, 2020 Sedgwick letter also contained several requests for certain
16 information designed to support a denial of coverage.

17 281. Subsequently, each of the Insurers responded to confirm their respective
18 reservations of rights.

19 282. To date, no Insurer has agreed to pay, or has paid, any of Baseball's losses.
20 Instead, the Insurers have made clear that they will not provide coverage for nearly all of
21 Plaintiffs' losses. For example, on June 10, 2020, Factory Mutual wrote to Baseball that "The
22 presence of COVID-19 at an insured location does not constitute 'physical damage of the type
23 insured'...." and that "the Policy's Civil or Military Authority provision (and other Policy
24 provisions requiring physical loss or damage of the type insured) do not respond based on the
25 information presented" in Baseball's claim. The letter instead indicated that "based on the
26 limited information provided at this time, the coverage that appears potentially available under
27 our Policy for losses arising from COVID-19 is found in our Communicable Disease
28 coverages...." Coverage under the All Risks Policies for COMMUNICABLE DISEASE

1 RESPONSE and INTERRUPTION BY COMMUNICABLE DISEASE (the “Communicable
2 Disease Coverage”) is subject to a sub-limit of \$4 million.

3 283. Factory Mutual’s June 10, 2020 letter to Baseball is consistent with a set of
4 “Talking Points” prepared by Factory Mutual for its claim adjusters to use to ensure that Factory
5 Mutual’s adjusters reach the same conclusion for all COVID-19 claims, shunting them all into
6 sub-limited Communicable Disease Coverage, regardless of the facts underlying each claim.
7 Those Talking Points fail to address the potential for coverage under various coverage grants
8 that may apply to claims related to the coronavirus and COVID-19, even though Factory
9 Mutual’s Talking Points—which state, “A virus will *typically* not cause physical damage,”
10 (emphasis added)—allow for the possibility that a virus *can* cause physical damage, and even
11 though Factory Mutual’s online promotional materials acknowledge that a virus can cause
12 physical damage to property.

13 284. On October 7, 2020, Interstate sent a letter to Baseball taking “no-coverage”
14 positions similar to those contained in Factory Mutual’s June 10, 2020 letter, described above.

15 285. On information and belief, AIG has taken similar positions. No Insurer has
16 acknowledged coverage for claims like those presented here by Plaintiffs.

17 **FIRST CAUSE OF ACTION**
18 **(For Declaratory Relief Against AIG)**

19 286. Plaintiffs repeat and incorporate by reference the allegations set forth in
20 Paragraphs 1 through 285 of this Complaint, inclusive, as though set forth fully herein.

21 287. Plaintiffs seek a declaration of the parties’ rights and duties under the AIG All
22 Risks Policy in accordance with Sections 1060 and 379 of the Code of Civil Procedure.

23 288. An actual and justiciable controversy exists between Plaintiffs and AIG
24 concerning AIG’s contractual duties to pay Plaintiffs’ claims for real property losses, time
25 element losses, and other losses, costs, and expenses under the AIG All Risks Policy.

26 289. The controversy between Plaintiffs and AIG is ripe for judicial review.

27 290. The controversy is of sufficient immediacy to justify the issuance of declaratory
28 relief.

1 291. Plaintiffs accordingly seek a declaration from the Court that:

- 2 a) Each coverage provision identified in the Complaint is triggered by Plaintiffs' claims;
- 3 b) No exclusion in the All Risks Policy applies to preclude or limit coverage for Plaintiffs' claims;
- 4 c) Plaintiffs have satisfied or been excused from satisfying, or AIG has waived or is estopped from enforcing, all conditions precedent under the All Risks Policy;
- 5 d) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of real property losses, time element losses, extra expense, and other losses sustained as a result of direct loss or damage to property due to the coronavirus and/or COVID-19;
- 6 e) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of time element losses for GROSS EARNINGS or GROSS PROFITS loss, at Plaintiffs' election, during the Period of Liability;
- 7 f) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of EXTRA EXPENSE incurred to continue business during the Period of Liability;
- 8 g) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of time element losses and extra expense as a result of orders of civil authority that have impaired access to insured properties as a result of the coronavirus and/or COVID-19 at insured property or other locations within ten miles;
- 9 h) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of time element losses and extra expense wherever access to or egress from insured property has been impaired as a result of the coronavirus and/or COVID-19 at insured property or other locations;
- 10 i) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of lost rent and actual loss sustained with respect to rental properties;
- 11 j) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of lost GROSS EARNINGS and RENTAL INSURANCE losses incurring during the Extended Period of Liability after the end of the Period of Liability;

- k) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of actual losses and extra expense associated with physical loss or damage to contingent time element properties;
- l) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their crisis management costs due to the coronavirus and/or COVID-19;
- m) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for response costs and time element losses and extra expense as a result of the actual presence of communicable disease at insured locations;
- n) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for actual loss sustained to prevent and costs incurred to temporarily protect actual or impending physical loss or damage to insured property; and
- o) AIG is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims preparation costs.

SECOND CAUSE OF ACTION
(For Declaratory Relief Against Factory Mutual)

292. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 285 of this Complaint, inclusive, as though set forth fully herein.

293. Plaintiffs seek a declaration of the parties' rights and duties under the Factory Mutual All Risks Policy in accordance with Sections 1060 and 379 of the Code of Civil Procedure.

294. An actual and justiciable controversy exists between Plaintiffs and Factory Mutual concerning Factory Mutual's contractual duties to indemnify Plaintiffs' claims for real property losses, time element losses, and other losses, costs, and expenses under the Factory Mutual All Risks Policy.

295. The controversy between Plaintiffs and Factory Mutual is ripe for judicial review.

296. The controversy is of sufficient immediacy to justify the issuance of declaratory relief.

297. Plaintiffs accordingly seek a declaration from the Court that:

- a) Each coverage provision identified in the Complaint is triggered by Plaintiffs' claims;

1 b) No exclusion in the All Risks Policy applies to preclude or limit coverage for
2 Plaintiffs' claims;

3 c) Plaintiffs have satisfied or been excused from satisfying, or Factory Mutual has
4 waived or is estopped from enforcing, all conditions precedent under the All
Risks Policy;

5 d) Factory Mutual is contractually obligated under its All Risks Policy to
6 indemnify Plaintiffs for their claims of real property losses, time element
losses, extra expense, and other losses sustained as a result of direct loss or
7 damage to property due to the coronavirus and/or COVID-19;

8 e) Factory Mutual is contractually obligated under its All Risks Policy to
9 indemnify Plaintiffs for their claims of time element losses for GROSS
EARNINGS or GROSS PROFITS loss, at Plaintiffs' election, during the
10 Period of Liability;

11 f) Factory Mutual is contractually obligated under its All Risks Policy to
12 indemnify Plaintiffs for their claims of EXTRA EXPENSE incurred to
continue business during the Period of Liability;

13 g) Factory Mutual is contractually obligated under its All Risks Policy to
14 indemnify Plaintiffs for their claims of time element losses and extra expense
15 as a result of orders of civil authority that have limited, restricted, or prohibited
access to insured properties as a result of the coronavirus and/or COVID-19 at
16 insured property or other locations within ten miles;

17 h) Factory Mutual is contractually obligated under its All Risks Policy to
18 indemnify Plaintiffs for their claims of time element losses and extra expense
19 wherever ingress to or egress from insured property has been partially or
totally prevented as a result of the coronavirus and/or COVID-19 at insured
property or other locations;

20 i) Factory Mutual is contractually obligated under its All Risks Policy to
21 indemnify Plaintiffs for their claims of lost rent and actual loss sustained with
respect to rental properties;

22 j) Factory Mutual is contractually obligated under its All Risks Policy to
23 indemnify Plaintiffs for their claims of lost GROSS EARNINGS and RENTAL
24 INSURANCE losses incurring during the Extended Period of Liability after the
25 end of the Period of Liability;

26 k) Factory Mutual is contractually obligated under its All Risks Policy to
27 indemnify Plaintiffs for losses and extra expense associated with physical loss
or damage to contingent time element properties;

28

- l) Factory Mutual is contractually obligated under its All Risks Policy to indemnify Plaintiffs for response costs and time element losses and extra expense as a result of the actual presence of communicable disease at insured locations;
- m) Factory Mutual is contractually obligated under its All Risks Policy to indemnify Plaintiffs for actual loss sustained to prevent and costs incurred to temporarily protect actual or impending physical loss or damage to insured property; and
- n) Factory Mutual is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims preparation costs.

THIRD CAUSE OF ACTION
(For Declaratory Relief Against Interstate)

298. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 285 of this Complaint, inclusive, as though set forth fully herein.

299. Plaintiffs seek a declaration of the parties' rights and duties under the Interstate All Risks Policy in accordance with Sections 1060 and 379 of the Code of Civil Procedure.

300. An actual and justiciable controversy exists between Plaintiffs and Interstate concerning Interstate's contractual duties to indemnify Plaintiffs' claims for real property losses, time element losses, and other losses, costs, and expenses under the All Risks Policy.

301. The controversy between Plaintiffs and Interstate is ripe for judicial review.

302. The controversy is of sufficient immediacy to justify the issuance of declaratory relief.

303. Plaintiffs accordingly seek a declaration from the Court that:

- a) Each coverage provision identified in the Complaint is triggered by Plaintiffs' claims;
- b) No exclusion in the All Risks Policy applies to preclude or limit coverage for Plaintiffs' claims;
- c) Plaintiffs have satisfied or been excused from satisfying, or Interstate has waived or is estopped from enforcing, all conditions precedent under the All Risks Policy;
- d) Interstate is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims of real property losses, time element losses, extra

1 expense, and other losses sustained as a result of direct loss or damage to
2 property due to the coronavirus and/or COVID-19;

3

- 4 e) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for their claims of time element losses for GROSS EARNINGS or
GROSS PROFITS loss, at Plaintiffs' election, during the Period of Liability;
- 5 f) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for their claims of EXTRA EXPENSE incurred to continue business
during the Period of Liability;
- 6 g) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for their claims of time element losses and extra expense as a result
of orders of civil authority that have limited, restricted, or prohibited access to
insured properties as a result of the coronavirus and/or COVID-19 at insured
property or other locations within ten miles;
- 7 h) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for their claims of time element losses and extra expense wherever
ingress to or egress from insured property has been partially or totally
prevented as a result of the coronavirus and/or COVID-19 at insured property
or other locations;
- 8 i) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for their claims of lost rent and actual loss sustained with respect to
rental properties;
- 9 j) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for their claims of lost GROSS EARNINGS and RENTAL
INSURANCE losses incurring during the Extended Period of Liability after the
end of the Period of Liability;
- 10 k) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for losses and extra expense associated with physical loss or damage
to contingent time element properties;
- 11 l) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for response costs and time element losses and extra expense as a
result of the actual presence of communicable disease at insured locations;
- 12 m) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for actual loss sustained to prevent and costs incurred to temporarily
protect actual or impending physical loss or damage to insured property;
- 13 n) Interstate is contractually obligated under its All Risks Policy to indemnify
Plaintiffs for actual loss sustained to prevent and costs incurred to temporarily
protect actual or impending physical loss or damage to insured property; and

- o) Interstate is contractually obligated under its All Risks Policy to indemnify Plaintiffs for their claims preparation costs.

FOURTH CAUSE OF ACTION
(For Breach of Contract Against AIG)

304. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 285 of this Complaint, inclusive, as though set forth fully herein.

305. The AIG All Risks Policy is a valid and enforceable contract between Plaintiffs and AIG.

306. Plaintiffs have satisfied, are excused from performing, or AIG has waived or is estopped from insistence upon performance of, all conditions of the All Risks Policy, including but not limited to payment of required premiums, provision of timely notice of claim, and submission of a Proof of Loss.

307. AIG agreed in its insurance contract to provide insurance coverage for all risks of physical loss or damage not otherwise excluded.

308. The COVID-19 pandemic has caused and continues to cause physical loss and/or damage to Plaintiffs' properties and to properties within ten miles of Plaintiffs' insured locations.

309. The Plaintiffs have suffered actual losses and incurred extra expense due to physical loss and damage caused by the COVID-19 pandemic, a risk not excluded by the AIG All Risks Policy.

310. No Policy exclusion applies to preclude or limit coverage.

311. As is set forth more fully above, AIG is contractually obligated under the All Risks Policy to indemnify Plaintiffs for the full amount of their losses, including real property losses, time element losses, extra expenses, and costs resulting from (i) physical loss and damage caused by the coronavirus and COVID-19, (ii) civil authority orders, (iii) obstruction of ingress and egress, (iv) communicable disease response and business interruption, (v) crisis management, (vi) contingent time element losses, (vii) extra expense losses, and (viii) claims preparation costs, subject only to the applicable deductibles and limits of liability in the AIG Policy.

312. Nonetheless, AIG has refused to pay for Plaintiffs' loss and expenses in breach of the All Risks Policy.

313. As a direct and proximate result of its breach of contract, AIG has deprived Plaintiffs of the benefits of the insurance coverage for which substantial premiums were paid, which entitles Plaintiffs to money damages, including interest according to law.

314. Plaintiffs' losses as a result of AIG's breach of contract are continuing, and Plaintiffs reserve the right to seek the full and exact amount of its damages at the time of trial.

FIFTH CAUSE OF ACTION
(For Breach of Contract Against Factory Mutual)

315. Plaintiffs repeat and incorporate by reference the allegations set forth in Paragraphs 1 through 285 of this Complaint, inclusive, as though set forth fully herein.

316. The Factory Mutual All Risks Policy is a valid and enforceable contract between Plaintiffs and Factory Mutual.

317. Plaintiffs have satisfied, are excused from performing, or Factory Mutual has waived or is estopped from insistence upon performance of, all conditions of the All Risks Policy, including but not limited to payment of required premiums, provision of timely notice of claim, and submission of a Proof of Loss.

318. Factory Mutual agreed in its insurance contract to provide insurance coverage for all risks of physical loss or damage not otherwise excluded.

319. The COVID-19 pandemic has caused and continues to cause physical loss and/or damage to Plaintiffs' properties and to properties within ten miles of Plaintiffs' insured locations.

320. The Plaintiffs have suffered actual losses and incurred extra expense due to physical loss and damage caused by the COVID-19 pandemic, a risk not excluded by the Factory Mutual All Risks Policy.

321. No Policy exclusion applies to preclude or limit coverage.

322. As is set forth more fully above, Factory Mutual is contractually obligated under the All Risks Policy to indemnify Plaintiffs for the full amount of their losses, including real property losses, time element losses, extra expenses, and costs resulting from (i) physical loss

1 and damage caused by the coronavirus and COVID-19, (ii) civil authority orders, (iii)
2 obstruction of ingress and egress, (iv) communicable disease response and business interruption,
3 (v) contingent time element losses, (vi) extra expense losses, and (vii) claims preparation costs,
4 subject only to the applicable deductibles and limits of liability in the Factory Mutual Policy.

5 323. Nonetheless, Factory Mutual has refused to pay for Plaintiffs' loss and expenses in
6 breach of the All Risks Policy.

7 324. As a direct and proximate result of its breach of contract, Factory Mutual has
8 deprived Plaintiffs of the benefits of the insurance coverage for which substantial premiums
9 were paid, which entitles Plaintiffs to money damages, including interest according to law.

10 325. Plaintiffs' losses as a result of Factory Mutual's breach of contract are continuing,
11 and Plaintiffs reserve the right to seek the full and exact amount of its damages at the time of
12 trial.

13 **SIXTH CAUSE OF ACTION**
14 **(For Breach of Contract Against Interstate)**

15 326. Plaintiffs repeat and incorporate by reference the allegations set forth in
16 Paragraphs 1 through 285 of this Complaint, inclusive, as though set forth fully herein.

17 327. The Interstate All Risks Policy is a valid and enforceable contract between
18 Plaintiffs and Interstate.

19 328. Plaintiffs have satisfied, are excused from performing, or Interstate has waived or
20 is estopped from insistence upon performance of, all conditions of the All Risks Policy,
21 including but not limited to payment of required premiums, provision of timely notice of claim,
22 and submission of a Proof of Loss.

23 329. Interstate agreed in its insurance contract to provide insurance coverage for all
24 risks of physical loss or damage not otherwise excluded.

25 330. The COVID-19 pandemic has caused and continues to cause physical loss and/or
26 damage to Plaintiffs' properties and to properties within ten miles of Plaintiffs' insured
27 locations.

331. The Plaintiffs have suffered actual losses and incurred extra expense due to physical loss and damage caused by the COVID-19 pandemic, a risk not excluded by the Interstate All Risks Policy.

332. No Policy exclusion applies to preclude or limit coverage.

333. As is set forth more fully above, Interstate is contractually obligated under the All Risks Policy to indemnify Plaintiffs for the full amount of their losses, including real property losses, time element losses, extra expenses, and costs resulting from (i) physical loss and damage caused by the coronavirus and COVID-19, (ii) civil authority orders, (iii) obstruction of ingress and egress, (iv) communicable disease response and business interruption, (v) contingent time element losses, (vi) extra expense losses, and (vii) claims preparation costs, subject only to the applicable deductibles and limits of liability in the Interstate Policy.

334. Nonetheless, Interstate has refused to pay for Plaintiffs' loss and expenses in breach of the All Risks Policy.

335. As a direct and proximate result of its breach of contract, Interstate has deprived Plaintiffs of the benefits of the insurance coverage for which substantial premiums were paid, which entitles Plaintiffs to money damages, including interest according to law.

336. Plaintiffs' losses as a result of Interstate's breach of contract are continuing, and Plaintiffs reserve the right to seek the full and exact amount of its damages at the time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

(1) A declaratory judgment in favor of Plaintiffs and against Insurers declaring that:

- a) Each coverage provision identified in the Complaint is triggered by Plaintiffs' claims;

b) No exclusion in the All Risks Policies applies to preclude or limit coverage for Plaintiffs' claims;

- c) Plaintiffs have satisfied or been excused from satisfying, or the Insurers have waived or are estopped from enforcing, all conditions precedent under the All Risks Policy;

- d) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims of real property losses, time element losses, extra expense, and other losses sustained as a result of direct loss or damage to property due to the coronavirus and/or COVID-19;
- e) The Insurers are contractually obligated under their All Risks Policy to indemnify Plaintiffs for their claims of time element losses for GROSS EARNINGS or GROSS PROFITS loss, at Plaintiffs' election, during the Period of Liability;
- f) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims of EXTRA EXPENSE incurred to continue business during the Period of Liability;
- g) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims of time element losses and extra expense as a result of orders of civil authority that have impaired, limited, restricted, or prohibited access to insured properties as a result of the coronavirus and/or COVID-19 at insured property or other locations within ten miles;
- h) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims of time element losses and extra expense wherever ingress or access to, or egress from, insured property has been impaired or partially or totally prevented as a result of the coronavirus and/or COVID-19 at insured property or other locations;
- i) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims of lost rent and actual loss sustained with respect to rental properties;
- j) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims of lost GROSS EARNINGS and RENTAL INSURANCE losses incurring during the Extended Period of Liability after the end of the Period of Liability;
- k) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for losses and extra expense associated with physical loss or damage to contingent time element properties;
- l) AIG is contractually obligated under the AIG Policy to indemnify Plaintiffs for their crisis management costs due to the coronavirus and/or COVID-19;
- m) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for response costs and time element losses and extra expense as a result of the actual presence of communicable disease at insured locations;

- n) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for actual loss sustained to prevent and costs incurred to temporarily protect actual or impending physical loss or damage to insured property; and
- o) The Insurers are contractually obligated under their All Risks Policies to indemnify Plaintiffs for their claims preparation costs;

(2) Compensatory and consequential damages in an amount to be proven at trial;

(3) Pre-judgment and post-judgment interest as provided by law;

(4) An award of court costs and attorneys' fees; and

(5) Such other and further relief as this Court finds just and proper.

Dated: October 16, 2020

COVINGTON & BURLING LLP

By: Rani Gupta
RANI GUPTA

Attorneys for Plaintiffs

JURY TRIAL DEMAND

Plaintiffs hereby demand a jury trial of all issues so triable.

Dated: October 16, 2020

COVINGTON & BURLING LLP

By: Rani Gupta
RANI GUPTA

Attorneys for Plaintiffs