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United States District Court  
Central District of California  
Western Division

THE LOS ANGELES LAKERS, INC.,

CV 21-02281 TJH (MRWx)

Plaintiff,

v.

FEDERAL INSURANCE COMPANY,

Order JS-6

Defendant.

The Court has considered Defendant Federal Insurance Company’s [“Federal”] motion to dismiss, together with the moving and opposing papers.

On March 15, 2021, Plaintiff The Los Angeles Lakers [“the Lakers”] filed this action against Federal, its insurer. The following facts are as alleged in the complaint.

In August, 2019, the Lakers purchased an all-risk commercial property insurance policy for the Staples Center from Federal [“the Policy”]. Based on the terms of the Policy, Federal was obligated to reimburse the Lakers for business income loss, along with extra expenses incurred, due to, *inter alia*: (1) Actual or potential impairment of [the Lakers’s] operations caused by or resulting from direct physical loss or damage to the property [“Business Interruption Clause”]; or (2) Actual impairment of the Lakers’s operations, directly caused by the prohibition of access to the property by a government

1 entity, provided that the prohibition of access by a civil authority must be the direct  
2 result of direct physical loss or damage to property away from, but within one mile of,  
3 the Lakers' covered property ["Civil Authority Clause"].

4 As early as December, 2019, COVID-19, a highly communicable virus, began  
5 spreading in Los Angeles. COVID-19 can be transmitted through aerosol droplets,  
6 which can be inhaled or land on nearby surfaces. Some studies have concluded that  
7 COVID-19 can be transmitted from physical surfaces.

8 In March, 2020, Lakers players, staff, and others – who were physically present  
9 at the Staples Center during the previous weeks – tested positive for COVID-19.  
10 Accordingly, COVID-19 was physically present in the Staples Center. Specifically, the  
11 Lakers alleged that “[t]he presence of [COVID-19] at the Staples Center damaged the  
12 property . . . [and] the damage caused by the presence of the virus at the Staples Center  
13 made it unusable for hosting Lakers games with fans in attendance for months.” “As  
14 a result, the Lakers suffered tens of millions of dollars in lost revenue.”

15 Within a mile from the Staples Center are, *inter alia*, five Metro stations that  
16 fans utilize to get to the Staples Center. COVID-19 was, also, present and damaged  
17 those Metro stations.

18 State and local authorities called for the postponement or cancellation of all  
19 professional sporting events. For example, on April 1, 2020, Los Angeles Mayor Eric  
20 Garcetti revised his March 19, 2020, “Safer at Home” order to explain that “the  
21 COVID-19 virus can spread easily from person to person and it is physically causing  
22 property loss or damage due to its tendency to attach to surfaces for prolonged periods  
23 of time.”

24 Based on COVID-19, the Lakers submitted a claim for coverage under the  
25 Business Interruption and Civil Authority Clauses in the Policy. On May 14, 2020,  
26 Federal denied the claim. Subsequently, the Lakers initiated this action for declaratory  
27 judgment, breach of contract, and breach of the covenant of good faith and fair dealing.

28 Federal, now, moves to dismiss all of the Lakers's claims for failure to state a

1 claim.

2 While a complaint need not include detailed factual allegations for each element  
3 of each claim, it must contain enough facts to state a claim for relief that is plausible  
4 on its face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007). A plaintiff  
5 cannot simply restate the elements of its claim, but, rather, must allege enough facts  
6 to allow the Court to draw a reasonable inference that the defendant is liable for the  
7 misconduct alleged. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Further, the Court  
8 must accept all allegations in the complaint as true and draw all reasonable inferences  
9 in the plaintiff's favor. *See Iqbal*, 556 U.S. at 678. However, the Court is "not bound  
10 to accept as true a legal conclusion couched as a factual allegation." *Iqbal*, 556 U.S.  
11 at 679.

12 The Lakers's claims are predicated on the premise that Federal improperly  
13 denied its claim. The parties agree, here, that whether Federal properly denied the  
14 Lakers' claim turns on whether the presence of COVID-19 at the Staples Center and  
15 the surrounding transportation stations constituted a "direct physical loss or damage to  
16 the property."

17 The Policy is a contract and, therefore, the ordinary rules of contractual  
18 interpretation apply. *See Palmer v. Truck Ins. Exchange*, 21 Cal. 4th 1109, 1115  
19 (1999). When interpreting the Policy, the Court must give the Policy's terms their  
20 ordinary and popular meaning. *See Palmer*, 21 Cal. 4th at 115.

21 Under California law, "a direct physical loss contemplates an actual change in  
22 insured property then in a satisfactory state, occasioned by accident or other fortuitous  
23 event directly upon the property causing it to become unsatisfactory for future use or  
24 requiring that repairs be made to make it so." *See MRI Healthcare Center of Glendale,*  
25 *Inc. v. State Farm General Ins. Co.*, 187 Cal. App. 4th 766, 779 (2010). For there to  
26 be a "loss," the property must have been "damaged" within the common understanding  
27 of the that term. *MRI*, 187 Cal. App. 4th at 780.

28 The Lakers rely on, *inter alia*, the allegation that the presence of COVID-19 at


1 the Staples Center and the surrounding transportation stations “physically alters [that]  
2 property” and “damages [the] buildings, fixtures, systems, and personal property. . .  
3 all of which constitutes physical damage to and loss of the properties.” However, the  
4 Lakers’ allegations are merely legal conclusions couched as factual allegations. *See*  
5 *Iqbal*, 556 U.S. at 679. The Lakers failed to allege any facts to support its conclusion  
6 that the presence of COVID-19 constituted a “direct physical loss or damage”. *See*  
7 *MRI*, 187 Cal. App. 4th at 780.

8 Thus, the Lakers failed to adequately state a claim for any of its claims. *See*  
9 *Iqbal*, 566 U.S. at 678.

10  
11 Accordingly,

12  
13 **It is Ordered** that the motion to dismiss be, and hereby is, **Granted** without  
14 prejudice.

15  
16 Date: August 11, 2021

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19 **Terry J. Hatter, Jr.**  
20 **Senior United States District Judge**