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FEDERAL INSURANCE COMPANY

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN FRANCISCO

10  
11 FEDERAL INSURANCE COMPANY,  
12 Plaintiff,  
13 v.  
14 YELP INC.,  
15 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY  
JUDGMENT**

**JURY TRIAL DEMANDED**

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17  
18 Plaintiff Federal Insurance Company (“Federal”), by and through its undersigned  
19 attorneys, hereby files this Complaint against Defendant Yelp Inc. (“Yelp”) and, in support  
20 thereof, alleges as follows:

21 **INTRODUCTION**

22 This is an action for declaratory relief wherein Federal seeks a declaration of the rights,  
23 duties, and responsibilities of the parties in relation to a CHUBB Customarq Classic Insurance  
24 Program policy (the “Policy”) issued by Plaintiff Federal Insurance Company (“Federal”) to  
25 Defendant Yelp Inc. (“Yelp”). Specifically, Federal seeks a declaration that it is not obligated to  
26 provide coverage under the Policy for Yelp’s alleged losses arising out of the COVID-19  
27 pandemic.

28 ///

1 **THE PARTIES**

2 1. Plaintiff Federal Insurance Company is an Indiana corporation with its principal  
3 place of business in New Jersey.

4 2. Upon information and belief, Defendant Yelp Inc. is a Delaware corporation with  
5 its principal place of business in San Francisco, California.

6 3. Upon information and belief, Yelp operates a website, mobile website, and related  
7 mobile application for users to share information about their communities.

8 **JURISDICTION AND VENUE**

9 4. This Court has subject matter jurisdiction pursuant to the California Constitution,  
10 Article VI, § 10.

11 5. Defendant is subject to personal jurisdiction in the state of California by virtue of  
12 its business activities and operations in this state, including having its principal place of business  
13 in San Francisco, California.

14 6. Venue in this action is properly laid in this Court pursuant to California Code of  
15 Civil Procedure § 395(a) and § 395.5 because the policy issued by Federal to Yelp was issued to  
16 Yelp, the obligations under the policy at issue were to be performed, the Defendant does business,  
17 and the events that led to this dispute occurred primarily if not entirely in San Francisco,  
18 California.

19 **FACTUAL ALLEGATIONS**

20 **Controversy Between the Parties**

21 7. There is an actual, substantial, and continuing controversy between Federal and  
22 Yelp. On July 12, 2021, Yelp sued Federal in the Superior Court of New Jersey (the “New Jersey  
23 Action”). In its complaint in the New Jersey Action, Yelp alleges that, pursuant to the Policy,  
24 Federal was obligated to provide coverage for Yelp’s losses arising out of the COVID-19  
25 pandemic. Yelp filed suit in New Jersey despite the fact that the Policy was issued to it in San  
26 Francisco and California law applies to the parties’ dispute. In addition, while the Policy insures  
27 Yelp’s San Francisco locations among others, Yelp has no insured locations in New Jersey.  
28 Indeed, the Policy’s Schedule of Premises reflects offices in multiple states and even in other

1 countries, but it does not reflect any offices in New Jersey. Moreover, even in the New Jersey  
2 Action, Yelp did not allege having offices in New Jersey, instead only referencing offices at which  
3 it conducted advertising sales in California, New York, the District of Columbia, Virginia,  
4 Arizona, Illinois, the United Kingdom, and Germany. Accordingly, New Jersey bears no relation  
5 to Yelp’s COVID-19 claim, while California provides the proper forum and rule of law for the  
6 dispute.

7 **The Policy**

8 8. Federal issued Customarq Classic Insurance Program Policy No. 3600-42-33 SFO  
9 to Yelp Inc. (the “Policy”) at its corporate headquarters located at 140 New Montgomery Street,  
10 San Francisco, California 94105. The Policy provides various specified Limits of Insurance, with  
11 various sub-limits, time limits, and waiting periods for certain coverages, and per-premises or  
12 coverage deductibles. A true and correct redacted copy of the Policy is attached hereto as Exhibit  
13 A.

14 9. The Policy was issued to the named insured, Yelp Inc., for the November 30, 2019  
15 to November 30, 2020 policy period.

16 10. The Property Insurance coverage provisions at issue in this dispute generally  
17 require “direct physical loss or damage” to property. More specifically, the coverages that Yelp  
18 has asserted claims against for its alleged losses resulting from the COVID-19 pandemic all  
19 require “direct physical loss or damage” caused by a covered peril, or a peril not otherwise  
20 excluded, to covered or other specified property. Federal contends that Yelp has not established  
21 any “direct physical loss or damage” to any property, covered or otherwise, as a result of the  
22 COVID-19 pandemic.

23 **Yelp’s Claimed Losses**

24 11. In January 2020, the first cases of COVID-19, a disease caused by the novel  
25 coronavirus, were reported in the United States. Soon thereafter, the United States federal  
26 government declared that COVID-19 had become a pandemic.

27 12. In response to the pandemic, state and local governments throughout the United  
28 States, and authorities throughout the world, imposed a variety of “stay-at-home” or other orders

1 or recommendations that were designed to stop or mitigate the person-to-person spread of  
2 COVID-19 and the coronavirus (the “Government Orders”). Some of the Government Orders  
3 were issued in jurisdictions where Yelp’s properties are located.

4 13. Yelp contends that, as a result of the pandemic, it has suffered losses. For example,  
5 Yelp alleges that the value, utility, and normal function of its insured premises (including the  
6 physical property and airspace contained therein) has been impaired and diminished. More  
7 specifically, Yelp alleges that before and during the COVID-19 pandemic, it had offices in the  
8 United States and abroad where it conducted advertising sales. Although it utilized “skeleton”  
9 crews to maintain its offices and support its workforce working remotely, Yelp avers that it closed  
10 its offices in March 2020, and that its offices remain closed, due to the risk of harm to its  
11 employees. As a result, Yelp alleges that its sales operations were impaired.

12 14. Yelp alleges that the closure of its offices caused it to lose business income and  
13 incur additional expenses such as cleaning and disinfecting at its office locations. Yelp also  
14 alleges that it sustained additional expenses by way of paying its workforce both a one-time work-  
15 from-home subsidy, as well as a monthly work-from-home subsidy, which employees could use to  
16 purchase equipment and other services to assist with job functions.

17 15. In the New Jersey Action, Yelp asserted claims for breach of contract and  
18 declaratory judgment on the basis that Federal constructively denied coverage for its losses  
19 described above.

20 **FIRST CAUSE OF ACTION**  
21 **DECLARATORY JUDGMENT AS TO**  
22 **COVERAGE UNDER THE POLICY**

23 16. Plaintiff incorporates herein by reference the allegations of paragraphs 1 through  
24 15, inclusive, as though fully set forth herein.

25 17. Yelp alleges that it is entitled to coverage for its alleged losses sustained as a result  
26 of COVID-19 under the Policy.

27 18. Yelp is not entitled to coverage for its alleged losses sustained as a result of  
28 COVID-19 under the Policy because Yelp has not established that it has satisfied the Policy’s

1 specific terms, conditions, and provisions of the Policy, and its losses, to the extent there are any,  
2 may be precluded by certain of the Policy’s exclusions.

3 19. Federal is entitled to declaratory relief that Yelp is not entitled to coverage under  
4 the Policy for its claimed losses.

5 **SECOND CAUSE OF ACTION**  
6 **DECLARATORY JUDGMENT AS TO COVERAGE UNDER**  
7 **THE PROPERTY INSURANCE PORTION OF THE POLICY**

8 20. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 19,  
9 inclusive, as though fully set forth herein.

10 21. Yelp alleges that it is entitled to coverage for its alleged losses sustained as a result  
11 of COVID-19 under various Property Insurance provisions of the Policy.

12 22. The Property Insurance coverage provisions at issue in this dispute generally  
13 require “direct physical loss or damage” to covered or other specified property.

14 23. Yelp is not entitled to coverage under the Property Insurance portion of the Policy  
15 because Yelp has not established any “direct physical loss or damage” to any property as a result  
16 of COVID-19 or the presence of the coronavirus or persons infected by it on or near Yelp’s  
17 premises.

18 24. Federal is entitled to declaratory relief that Yelp is not entitled to coverage under  
19 the Property Insurance portion of the Policy for its claimed losses.

20 **THIRD CAUSE OF ACTION**  
21 **DECLARATORY JUDGMENT AS TO**  
22 **BUILDING OR PERSONAL PROPERTY COVERAGE**

23 25. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 24,  
24 inclusive, as though fully set forth herein.

25 26. Yelp alleges that it is entitled to coverage for its alleged losses under the Building  
26 Or Personal Property coverage provided in the Building and Personal Property section of the  
27 Property Insurance portion of the Policy.

28 27. With respect to Building Or Personal Property, the Policy provides, in relevant part,  
as follows:

We will pay for direct physical loss or damage to:

- **building**; or
- **personal property**,

caused by or resulting from a peril not otherwise excluded, not to exceed the applicable Limit Of Insurance for Building Or Personal Property shown in the Declarations.<sup>[1]</sup>

28. Yelp is not entitled to Building or Personal Property coverage because Yelp did not incur direct physical loss or damage to a **building** or **personal property** as a result of COVID-19 or the presence of the coronavirus or persons infected by it on or near Yelp’s premises.

29. Federal is entitled to declaratory relief that Yelp is not entitled to Building or Personal Property coverage for its claimed losses.

**FOURTH CAUSE OF ACTION**  
**DECLARATORY JUDGMENT AS TO**  
**BUILDING AND PERSONAL PROPERTY - ANY OTHER**  
**LOCATION ADDITIONAL COVERAGE**

30. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 29, inclusive, as though fully set forth herein.

31. Yelp alleges that it is entitled to coverage for its alleged losses under other Policy provisions such as the Building And Personal Property - Any Other Location Additional Coverage provided in the Building And Personal Property section of the Property Insurance portion of Policy.

32. With respect to Building And Personal Property - Any Other Location Additional Coverage, the Policy provides, in relevant part, as follows:

We will pay for:

- direct physical loss or damage to covered property (other than a structure); or
- **accounts receivable** loss you incur caused by or resulting from direct physical loss or damage to your **accounts receivable records**,

at unspecified premises caused by or resulting from a peril not otherwise excluded, not to exceed the applicable Limit Of Insurance for such covered property or **accounts receivable** shown under Any Other Location in the Declarations.

This Additional Coverage does not apply to:

- property while at any exhibition, fair or trade show;
- property at newly acquired premises;
- property while **in transit**; or

<sup>1</sup> Except for headings, terms in bold type font are defined in the Policy.

- property at a job site or temporarily warehoused elsewhere awaiting installation at the job site.

This Additional Coverage applies only if a Limit Of Insurance applicable to such covered property or **accounts receivable** is shown under Any Other Location in the Declarations.

33. Yelp is not entitled to the Building or Personal Property - Any Other Location Additional Coverage because Yelp did not incur direct physical loss or damage to a covered property (other than a structure) or **accounts receivable records** as a result of COVID-19 or the presence of the coronavirus or persons infected by it on or near Yelp's premises.

34. Federal is entitled to declaratory relief that Yelp is not entitled to Building And Personal Property - Any Other Location Additional Coverage for its claimed losses.

**FIFTH CAUSE OF ACTION**  
**DECLARATORY JUDGMENT AS TO**  
**BUSINESS INCOME AND EXTRA EXPENSE COVERAGE**

35. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 34, inclusive, as though fully set forth herein.

36. Yelp alleges that it is entitled to coverage for its alleged losses under the Business Income And Extra Expense coverage provided in the Business Income With Extra Expense section of the Property Insurance portion of the Policy.

37. With respect to Business Income And Extra Expense, the Policy provides, in relevant part, as follows:

We will pay for the actual:

- **business income** loss you incur due to the actual impairment of your **operations**; and
- **extra expense** you incur due to the actual or potential impairment of your **operations**,

during the **period of restoration**, not to exceed the applicable Limit Of Insurance for Business Income With Extra Expense shown in the Declarations.

This actual or potential impairment of **operations** must be caused by or result from direct physical loss or damage by a **covered peril to property**, unless otherwise stated.

This Premises Coverage applies only at those premises:

- where you incur a **business income** loss or **extra expense**; and
- for which a Limit Of Insurance for Business Income With Extra Expense is shown in the Declarations.

38. Yelp is not entitled to the Business Income And Extra Expense coverage because Yelp did not incur direct physical loss or damage to **property** as a result of COVID-19 or the presence of the coronavirus or persons infected by it on or near Yelp's premises.

39. Federal is entitled to declaratory relief that Yelp is not entitled to the Business Income And Extra Expense coverage for its claimed losses.

**SIXTH CAUSE OF ACTION  
DECLARATORY JUDGMENT AS TO  
INGRESS AND EGRESS COVERAGE**

40. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 39, inclusive, as though fully set forth herein.

41. Yelp alleges that it is entitled to coverage for its alleged losses under the Ingress and Egress coverage provided in the Business Income With Extra Expense section of the Property Insurance portion of the Policy.

42. With respect to Ingress and Egress, the Policy provides, in relevant part, as follows:

We will pay for the actual:

- **business income** loss you incur due to the actual impairment of your **operations**; and
- **extra expense** you incur due to the actual or potential impairment of your **operations**,

when existing ingress to or egress from a premises shown in the Declarations is prevented due to direct physical loss or damage by a **covered peril** to property, provided such property is within:

- one **mile**; or
- the **applicable** miles shown in the Declarations,

from such premises, whichever is greater.

This Premises Coverage will begin at the time of direct physical loss or damage and will continue until the expiration of 30 consecutive days thereafter or whenever your **business income** coverage ends, whichever occurs first.

This Premises Coverage does not apply if the:

- direct physical loss or damage is caused by or results from earthquake or **flood**;  
or
- ingress to or egress from your premises is prohibited by civil authority.



1 43. Yelp is not entitled to the Ingress and Egress coverage because there was no direct  
2 physical loss or damage to property within the stated distance from Yelp's premises as a result of  
3 COVID-19 or the presence of the coronavirus or persons infected by it on or near Yelp's premises.

4 44. Federal is entitled to declaratory relief that Yelp is not entitled to the Ingress or  
5 Egress coverage for its claimed losses.

6 **SEVENTH CAUSE OF ACTION**  
7 **DECLARATORY JUDGMENT AS TO**  
8 **BUSINESS INCOME WITH EXTRA EXPENSE - ANY OTHER LOCATION**  
9 **ADDITIONAL COVERAGE**

10 45. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 44,  
11 inclusive, as though fully set forth herein.

12 46. Yelp alleges that it is entitled to coverage for its alleged losses under various  
13 coverages provided by the Policy, such as the Business Income With Extra Expense - Any Other  
14 Location Additional Coverage provided in the Business Income With Extra Expense section of the  
15 Property Insurance portion of Policy.

16 47. With respect to Business Income With Extra Expense - Any Other Location  
17 Additional Coverage, the Policy provides, in relevant part, as follows:

18 We will pay for the actual:

- 19 • **business income** loss you incur due to the actual impairment of your  
20 **operations**; and
- 21 • **extra expense** you incur due to the actual or potential impairment of your  
22 **operations**,

23 during **the period of restoration**, not to exceed the applicable Limit Of Insurance  
24 for Business Income shown under Any Other Location in the Declarations.

25 This actual or potential impairment of **operations** must be caused by or result from  
26 direct physical loss or damage by a **covered peril** to **property** at unspecified  
27 premises.

28 This Additional Coverage does not apply to **business income** loss or **extra expense**  
you incur caused by or resulting from loss or damage to property:

- used by utility companies to supply you with services;
- used by **on-line access** providers;
- at a **dependent business premises**;
- at a newly acquired premises;
- at **any** exhibition, fair or trade show; or
- **in transit**.



1 53. Yelp is not entitled to the Civil Authority coverage because the Government Orders  
2 did not result from direct physical loss or damage to property away from Yelp’s premises or any  
3 **dependent business premises** as a result of COVID-19.

4 54. Federal is entitled to declaratory relief that Yelp is not entitled to the Civil  
5 Authority coverage for its claimed losses.

6 **NINTH CAUSE OF ACTION**  
7 **DECLARATORY JUDGMENT AS TO**  
8 **CIVIL AUTHORITY ADDITIONAL COVERAGE UNDER THE EXTRA EXPENSE**  
9 **SECTION OF THE PROPERTY INSURANCE COVERAGE**

10 55. Plaintiff incorporates herein by reference the allegations of paragraph 1 through 54,  
11 inclusive, as though fully set forth herein.

12 56. Yelp alleges that it is entitled to coverage for its alleged losses under various  
13 coverages provided by the Policy, such as the Civil Authority Additional Coverage provided in the  
14 Extra Expense section of the Property Insurance portion of Policy.

15 57. With respect to the Civil Authority Additional Coverage, the Policy provides, in  
16 relevant part, as follows:

17 We will pay for the actual **extra expense** you incur due to the actual impairment of  
18 your **operations**, directly caused by the prohibition of access to:

- 19 • your premises; or
- 20 • a **dependent business premises**,

21 by a civil authority.

22 This prohibition of access by a civil authority must be the direct result of direct  
23 physical loss or damage to property away from such premises or such **dependent**  
24 **business premises** by a covered peril, provided such property is within:

- 25 • one mile; or
- 26 • the applicable miles shown in the Declarations,

27 from such premises or dependent business premises, whichever is greater.

28 58. Yelp is not entitled to the Civil Authority Additional Coverage because the  
Government Orders did not result from direct physical loss or damage to property away from  
Yelp’s premises or any **dependent business premises** as a result of COVID-19.

59. Federal is entitled to declaratory relief that Yelp is not entitled to the Civil  
Authority Additional Coverage for its claimed losses.



1 portion of Policy;

2 E. A judgment declaring that Yelp is not entitled to coverage for its claimed  
3 losses under the terms of the Business Income With Extra Expense section of the Property  
4 Insurance portion of the Policy;

5 F. A judgment declaring that Yelp is not entitled to coverage for its claimed  
6 losses under the terms of the Ingress and Egress coverage provided in the Business Income With  
7 Extra Expense section of the Property Insurance portion of the Policy;

8 G. A judgment declaring that Yelp is not entitled to coverage for its claimed  
9 losses under the terms of the Business Income With Extra Expense - Any Other Location  
10 Additional Coverage provided in the Business Income With Extra Expense section of the Property  
11 Insurance portion of Policy;

12 H. A judgment declaring that Yelp is not entitled to coverage for its claimed  
13 losses under the terms of the Civil Authority coverage provided in the Business Income With  
14 Extra Expense section of the Property Insurance portion of Policy;

15 I. A judgment declaring that Yelp is not entitled to coverage for its claimed  
16 losses under the terms of the Civil Authority Additional Coverage provided in the Extra Expense  
17 section of the Property Insurance portion of Policy;

18 J. A judgment declaring that Yelp is not entitled to coverage for its claimed  
19 losses under the Property Insurance portion of Policy pursuant to the Acts or Decisions Exclusion;

20 K. A judgment declaring that Federal has not breached its Policy by declining  
21 Yelp's claimed losses; and

22 L. Such other and further relief that the Court deems just and proper.

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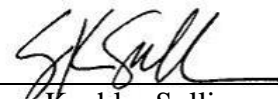
**JURY DEMAND**

Federal hereby demands a trial by jury on all issues so triable.

Dated: August 4, 2021

CLYDE & CO US LLP

By: \_\_\_\_\_



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