

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**LAWRENCE M. STOCK, as Special  
Administrator of the Estate of Carl  
Nathan Stock;  
ADRIENNE LEE STOCK, an  
Individual; and  
GEORGIENNE BRADLEY, as  
Trustee of the Stock Defective Trust  
u/t/d November 24, 2020,**  
  
**Plaintiffs,**  
  
**v.**  
**ALLSTATE INSURANCE  
COMPANY, an Illinois domestic stock  
Company,**  
**Defendant.**

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**Case No. 2:23-cv-08780-KS**

**MEMORANDUM AND ORDER RE:**

**(1) PLAINTIFFS' MOTION FOR  
PARTIAL SUMMARY  
JUDGMENT AS TO COUNTS ONE  
AND FOUR OF PLAINTIFFS'  
FIRST AMENDED COMPLAINT  
[DKT. NO. 105]**

**(2) DEFENDANT ALLSTATE  
INSURANCE COMPANY'S MOTION  
FOR SUMMARY JUDGMENT AS TO  
FIRST AND SECOND CAUSES OF  
ACTION; MOTION FOR PARTIAL  
SUMMARY JUDGMENT AS TO  
CONTRACT CLAIM; SECOND,  
THIRD, AND FOURTH CAUSES OF  
ACTION; PUNITIVE DAMAGES  
[DKT. NO. 106]**

1 **INTRODUCTION**

2  
3 This lawsuit arises from Defendant Allstate’s denial of insurance coverage of Plaintiffs’  
4 claim under a homeowners insurance policy. Before the Court for decision in this insurance  
5 coverage lawsuit are the parties’ cross-motions for summary judgment, or, in the alternative,  
6 partial summary judgment. Having thoroughly reviewed the parties’ briefing, evidence, and  
7 argument, and for the reasons outlined below, the Court DENIES Plaintiffs’ Motion for Partial  
8 Summary Judgment as to Counts One and Four of the First Amended Complaint. (Dkt. No.  
9 105.) The Court GRANTS, Defendant’s Motion for Summary Judgment as to the First and  
10 Second Causes of Action. (Dkt. No. 106.)

11  
12 **THE PARTIES’ CROSS-MOTIONS**

13  
14 (1) Plaintiffs’ initial filings:

- 15  
16 a. Plaintiffs’ Motion for Partial Summary Judgment as to Counts One and Four  
17 of Plaintiffs’ First Amended Complaint, filed on January 3, 2025 (“Pltfs’  
18 Motion”) (Dkt. No. 105);  
19  
20 b. In support of their Motion, Plaintiffs timely filed Plaintiffs’ Statement of  
21 Uncontroverted Facts (“PSUF”) (dkt. no. 105-1); Plaintiffs’ Supporting  
22 Evidence, including the Declaration of Reg K. Browne, Professional Engineer  
23 and related exhibits (dkt. no. 105-2).

24  
25 (2) Defendant’s initial filings:

- 26  
27 a. Defendant Allstate Insurance Company’s Notice of Motion and Motion for  
28 Summary Judgment, as to First and Second Causes of Action, Notice of

1 Motion and Motion for Partial Summary Judgment as to Contract Claim,  
2 Second, Third and Fourth Causes of Action, Punitive Damages, and Related  
3 Exhibits; (“Deft’s Motion”), filed on January 3, 2025 (Dkt. No. 106);  
4

5 b. Defendant’s Amendment to Notice of Motion and Motion for Summary  
6 Judgment as to First and Second Causes of Action; Notice of Motion and  
7 Motion for Partial Summary Judgment as to Contract Claim; Second, Third  
8 and Fourth Causes of Action; Punitive Damages; Amended Separate  
9 Statement of Uncontroverted Facts, filed on January 3, 2025 (together, Dkt.  
10 No. 107);  
11

12 c. Amendment to Notice of Motion and Motion for Summary Judgment as to  
13 First and Second Causes of Action; Notice of Motion and Motion for Partial  
14 Summary Judgment as to Contract Claim; Second, Third, and Fourth Causes  
15 of Action; Punitive Damages; with *CORRECTED Amended* Separate  
16 Statement of Uncontroverted Facts in Support of Allstate’s Motion for  
17 Summary Judgment or, in the Alternative, Partial Summary Judgment and  
18 Proposed Order; Notice of Errata and Declaration re Clerical Errors, filed on  
19 January 22, 2025 (Dkt. No. 114).<sup>1</sup>  
20

21 Defendant, with its Motion, submitted a Memorandum (dkt. no. 106-1); a Separate  
22 Statement of Uncontroverted Facts (dkt. no. 106-2); a Notice of Filing of Exhibits 1-29 (dkt.  
23 nos. 106-3-11); the Declaration of Patrick Axtell (dkt. no. 106-11); Declaration of Thomas  
24

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25 <sup>1</sup> Defendant’s Notice of Errata represents that Allstate’s summary judgment motion papers, filed on  
26 January 3, 2025 “contained inadvertent clerical errors that do not impact the substance of Allstate’s  
27 motion,” including a misnumbered Partial Summary Judgment issue that should have been numbered  
28 as Issue 7 rather than Issue 6 in Defendant’s Amended Separate Statement. (Dkt. No. 114-2 at 1.)  
Further, Defendant argues these “clerical errors did not cause any prejudice” to Plaintiffs. (*Id.* at 4.)

1 Byron (dkt. no. 106-13); and Declaration of Nathan S. Arrington (dkt. no. 106-12). As noted  
2 above, on January 3, 2025, Defendant filed an *Amended* Separate Statement of Uncontroverted  
3 Fact (“DASSUF”). (Dkt. No. 107.) In resolving Defendant’s Motion, the Court refers to  
4 Defendant’s amended submissions.

5  
6 On March 18, 2025, Plaintiffs Lawrence Michael Stock, Adrienne Lee Stock and  
7 Georgienne Bradley, (together “Plaintiffs” or “Stock”) filed an Opposition to Defendant’s  
8 Motion (dkt. no. 119), along with a Declarations of R. Browne (“Brown Decl.” (dkt. no. 119-  
9 1)); D Ardi (“Ardi Decl.” (dkt. no. 119-2)); and L. Stock (“L. Stock Decl.” (dkt. no. 119-3);  
10 the Allstate Coverage Denial Letter (dkt. no. 119-4); email correspondence dated May 7, 2004  
11 (dkt. no. 119-5); and Plaintiffs’ Response to Allstate’s Amended Separate Statement of  
12 Uncontroverted Facts (dkt. no. 119-6). On March 25, 2025, Allstate filed its Reply in support  
13 of the Motion (dkt. no. 126), along with its response to Plaintiffs Objections to Evidence, and  
14 Motion to Strike Declarations of Patrick Axtell and Thomas Byron (dkt. no. 126-1); Objections  
15 to Plaintiffs’ Evidence in Opposition to Allstate’s Motion for Summary Judgment or Partial  
16 Judgment (dkt. no. 126-2); and a Proposed Order re: Objections to Plaintiffs evidence in  
17 Opposition to Allstate Motion for Summary Judgment or Partial Judgement (dkt. no. 126-3).

18  
19 On March 18, 2025, Allstate also filed its Opposition to Plaintiffs’ Motion (dkt. no.  
20 121); a Response and Opposition to Plaintiffs’ Statement of Uncontroverted Facts (dkt. no.  
21 121-1); Objections to Plaintiffs’ Evidence in Support of Their Motion for Partial Summary  
22 Judgment (dkt. no. 121-2); a Proposed Order on Allstate’s Objections to Plaintiff Evidence  
23 (dkt. no. 121-3); and a Proposed Order Denying Plaintiffs’ Motion for Partial Summary  
24 Judgment (dkt. no. 121-4).

25  
26 On April 4, 2025, the Court vacated the hearing on the parties’ respective Motions and  
27 took the matters under submission for decision. (Dkt. No. 127.)  
28

## SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when the evidence, viewed in the light most favorable to the nonmoving party, demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. FED. R. CIV. P. 56(c). The moving party bears the initial burden of offering proof of the absence of any genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Once the moving party's burden is met, the opposing party is required to go beyond the pleadings and, by the party's own affidavits or by other evidence, designate "specific facts showing that there is a genuine issue for trial." FED. R. CIV. P. 56(e); *Miller v. Glenn Miller Prods., Inc.*, 454 F.3d 975, 987 (9th Cir. 2006). The party opposing the motion must submit evidence sufficient to establish the elements that are essential to that party's case, and for which that party will bear the burden of proof at trial. *Celotex Corp.*, 477 U.S. at 322.

The Court must "view the facts in the light most favorable to the non-moving party and draw reasonable inferences in favor of that party." *Scheuring v. Traylor Bros., Inc.*, 476 F.3d 781, 784 (9th Cir. 2007). Where different ultimate inferences reasonably can be drawn, summary judgment is inappropriate. *Miller*, 454 F.3d at 988. At summary judgment, "the court does not make credibility determinations or weigh conflicting evidence." *Porter*, 419 F.3d at 891 (citation omitted). A factual dispute is "genuine" only if there is a sufficient evidentiary basis upon which a reasonable jury could return a verdict for the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A factual dispute is "material" only if it might affect the outcome of the lawsuit under governing law. *Id.*

"Evidence may be offered to support or dispute a fact on summary judgment only if it could be presented in an admissible form at trial." *S. Cal. Darts Ass'n v. Zaffina*, 762 F.3d 921, 925-26 (9th Cir. 2014) (citation and internal quotation marks omitted); *see also Fonseca v. Sysco Food Servs. of Ariz., Inc.*, 374 F.3d 840, 846 (9th Cir. 2004) ("Even the declarations

1 that do contain hearsay are admissible for summary judgment purposes because they ‘could  
2 be presented in an admissible form at trial.’”) (citations omitted). Purported evidence which  
3 “sets out mere speculation for the critical facts, without a showing of foundation in personal  
4 knowledge[ ] for the facts claimed to be at issue” is insufficient. *John M. Floyd & Assocs.*,  
5 550 F. App’x at 360 (9th Cir. 2013). Conclusory statements are insufficient to defeat summary  
6 judgment. *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936,  
7 950 n.9 (9th Cir. 2011) (*en banc*).

8  
9 To establish the existence of a factual dispute, an opposing party need not establish an  
10 issue of fact conclusively in its favor; it is enough that “the claimed factual dispute be shown  
11 to require a jury or judge to resolve the parties’ differing versions of the truth at trial.” *First*  
12 *Nat’l Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 290 (1968). Thus, the “purpose of  
13 summary judgment is to ‘pierce the pleadings and to assess the proof in order to see whether  
14 there is a genuine need for trial.’” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475  
15 U.S. 574, 587 (quoting FED. R. CIV. P. 56(e) advisory committee’s note on 1963 amendments);  
16 *Int’l Union of Bricklayers v. Martin Jaska, Inc.*, 752 F.2d 1401, 1405 (9th Cir. 1985).

17  
18 The Court exercises original jurisdiction over this action based on the complete diversity  
19 of the parties. 28 U.S.C. ¶ 1332(a)(1). Accordingly, in addressing the merits of the Motion, the  
20 Court applies the substantive law of the State of California.

## 21 22 **ALLEGATIONS IN THE FIRST AMENDED COMPLAINT**

23  
24 Plaintiffs Carl Nathan (“Nate”) Stock, Adrienne Lee Stock and Georgienne Bradley, as  
25 Trustee of the Stock Defective Trust u/t/d/ November 24, 2020 (“Trustee Bradley”),  
26 commenced this action on October 18, 2023. (Dkt. No. 1.) Plaintiffs filed the operative First  
27 Amended Complaint (“FAC”) on September 18, 2024. (Dkt. No. 64.) Defendant filed an  
28

1 Answer to the FAC and a Jury Demand on October 2, 2024. (Dkt. No. 87.) Subject matter  
2 jurisdiction is proper based on complete diversity of the parties.

3  
4 The FAC outlines that Plaintiff Lawrence Nate Stock died on November 18, 2023, and  
5 Lawrence M. Stock is Special Administrator of the Estate of Carl Nathan Stock. (FAC at ¶  
6 1.) Trustee Bradley is a citizen of California, and in her capacity as Trustee has owned the  
7 house and real property located at 19108 Pacific Coast Highway in Malibu, California (the  
8 “Property”). (FAC at ¶ 2.) Defendant Allstate “is an Illinois domestic stock company and  
9 Illinois is the state in which Allstate maintains its principal place of business and  
10 headquarters[.]” (*Id.* at 3.)

11  
12 According to the FAC, Nate and Adrienne Stock,<sup>2</sup> as husband and wife and California  
13 citizens, resided at the Property until mid-December 2021 when “the partial and ongoing  
14 collapse of the Property as the result of hidden decay within the house and the weight of its  
15 contents forced them to evacuate” and move to temporary residences until “the completion of  
16 the necessary repairs and rebuilding of their house.” (*Id.* at ¶ 7.) According to Plaintiffs, in  
17 2021, Nate and Adrienne Stock “were insured under “deluxe Plus Homeowners Policy –  
18 AP337 number 034018984, issued by [Allstate] for the one-year period beginning January 24,  
19 2021 (the ‘Policy’).” (*Id.* at ¶ 8.) The Policy provided coverage for the Property identified in  
20 the Policy as the “Dwelling” and in addition to “Dwelling Protection” and other coverages,  
21 provided “coverage with Extended Limits of 150% of the stated limit of liability, for  
22 Additional Living Expense.” (*Id.*, and see Policy Declarations, FAC, Ex. A.) Plaintiffs assert  
23 the “loss and damages were reported to Defendant and Defendant acknowledged the notice of  
24 loss. (*Id.* at ¶ 9.)

25  
26  
27  
28 

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<sup>2</sup> On July 11, 2024, this Court appointed Lawrence Stock as Guardian ad Litem for Plaintiff Adrienne Lee Stock. (Dkt. No. 45.)

1 As alleged in the FAC, “Defendant requested and was granted an opportunity to inspect  
2 the Property as soon as considerations of safety allowed visitation and Defendant’s agent did  
3 an extensive examination of the Property and took photographs to his satisfaction.” (*Id.* at ¶  
4 10.) Plaintiffs further allege that the Policy “is an all-risk policy covering sudden and  
5 accidental direct physical loss to the property or dwelling” and that the “Property suffered  
6 from sudden and accidental direct physical loss within the meaning of Defendant’s Policy.”  
7 (*Id.* at ¶¶11-12.)

8  
9 The Policy included enumerated descriptions of what it does not cover, commonly  
10 referred to as “Exclusions.” (*Id.* at ¶ 13.) According to Plaintiffs, Exclusion No. 12 in the  
11 Policy purports to remove coverage for Collapse subject to an exception to the Exclusion,  
12 Plaintiffs’ loss falls within the exception to the Exclusion, and by its terms, the Exclusion does  
13 not extend to “the ‘Collapse’ of part of Plaintiffs’ Property and the direct physical loss to  
14 covered property caused by such collapse, as defined in ‘Section I, Additional Protection under  
15 item 12, Collapse.’” (*Id.*) As alleged in the FAC, under Section I, Additional Protection, item  
16 12, “Defendant undertook to cover Collapse as follows:

17  
18 We will cover:

- 19 a) The entire collapse of a covered building structure,  
20 b) The entire collapse of part of a covered building structure; and  
21 c) Direct physical loss to covered property caused by a) or b) above

22 \*\*\*\*

23 For coverage to apply, the collapse of a building structure specified in a) or b) must be  
24 a sudden and accidental direct physical loss caused by one of more of the following

25 \*\*\*

26 b) hidden decay of the building structure\*\*

27 Weight of persons, animals, equipment or contents . . . .  
28 .....

(*Id.* at ¶ 14.)  
.....



1 Plaintiffs contend that under the Policy’s “Section I, Additional Protection, item 1,  
2 Additional Living Expense,” Defendant was obligated to pay “the reasonable increase in living  
3 expenses necessary to maintain your normal standard of living when a direct physical loss we  
4 cover makes your residence premises uninhabitable.” (*Id.*) Based on this provision in the  
5 Policy, the FAC alleges that the Stocks “were forced to evacuate their home due to the  
6 dangerous condition caused by the collapse of a part of it and incurred covered Additional  
7 Living Expense.” (*Id.* at ¶ 15.) Plaintiffs assert that pursuant to Declarations in the Policy,  
8 “defendant increased the coverage applicable to the Property or dwelling to 150% of the  
9 \$989,848 Limit of Liability applicable to the building structure for Dwelling Protection.” (*Id.*  
10 at ¶ 16.) Based on the plain language of the Policy, Plaintiffs maintain that the insured property  
11 is a “Dwelling” and therefore, a “structure” within the meaning of the Policy. (*Id.*) Plaintiffs  
12 assert that the Policy “either clearly provides coverage for the Plaintiffs’ loss or, is ambiguous  
13 and must be construed against Defendant in favor of Plaintiffs.” (*Id.* at ¶ 17.) According to  
14 Plaintiffs, in either case, the Policy covers the losses Plaintiffs sustained. (*Id.*)

15  
16 Plaintiffs further allege that Defendant breached the insurance contract by failing and  
17 refusing to pay the covered losses under the Policy and by refusing to “affirm or deny coverage  
18 within a reasonable time, and by failing to make a reasonable settlement of its insureds’ claim.”  
19 (*Id.* at ¶¶ 18-19.) This conduct, according to Plaintiffs, “violated the covenant of good faith  
20 and fair dealing implied in every contract.” (*Id.* at ¶ 19.)

21  
22 Plaintiffs also allege that Defendant violated the California Unfair Claims Settlement  
23 Practices Act, California Insurance Code § 790.3, and the regulations issued by the California  
24 Commissioner of Insurance pursuant to the Code, by “misrepresenting pertinent insurance  
25 policy provisions relating to the coverage at issue . . . failing to promptly investigate and process  
26 its insureds’ claim, . . . by failing to attempt, in good faith, to effectuate prompt, fair and  
27 equitable settlements of its insureds’ claim even though it knew that its liability had become  
28 reasonably clear.” (*Id.* at ¶ 20.) Plaintiffs assert that having inspected the Property, Defendant

1 “had a duty to affirm coverage within a reasonable time, but “failed to make reasonable and  
2 timely payment of the Plaintiffs’ claim,” despite knowing that “the Property had suffered  
3 covered damage in the nature of a collapse of part of it which necessitated evacuation of the  
4 insured from the property, immediate shoring to prevent total collapse, and repair and  
5 replacement of the damaged areas[.]” (*Id.* at ¶ 20.)

6  
7 Based on these allegations, Plaintiffs assert four causes of action: Count One for breach  
8 of contract; Count Two for breach of the covenant of good faith and fair dealing; Count Three  
9 “for common law bad faith as evidenced by Defendant’s conduct [and] engaging in unfair  
10 claims settlement acts and practices ”; and Count Four for a declaration that Allstate’s Policy  
11 “provides coverage for the collapse loss sustained by the dwelling in question and the additional  
12 Extended Coverage limits of 150% of the Coverage A protection, and that Allstate’s coverage  
13 denial is in bad faith, entitling Plaintiffs to punitive damages and counsel fees.” (*Id.* at 22.)

14  
15 Against this backdrop, the Court turns to the evidence offered by the parties in  
16 connection with their respective motions.

17  
18 **UNCONTROVERTED MATERIAL FACTS<sup>3</sup>**

19  
20 Nate and Adrienne Stock, as husband and wife and California citizens, resided at the  
21 real property located at 19108 Pacific Coast Highway in Malibu, California (the “Property”)  
22 until mid-December 2021. Lawrence Nate Stock died on November 18, 2023, and Lawrence  
23 M. Stock is Special Administrator of the Estate of Carl Nathan Stock. In July 2024, the Court  
24 appointed Lawrence Stock as Guardian ad Litem for plaintiff Adrienne Lee Stock.

25  
26 <sup>3</sup> These undisputed material facts outlined above are pertinent to the resolution of both Plaintiffs’ and Defendant’s  
27 respective Motions. The parties each submitted Statements of Uncontroverted Facts in support of their Motions (dkt. no.  
28 105-1 (Pltfs’ SSUF); dkt. no. 106-2 (Deft’s SSUF) and, with their Opposition briefs, each submitted responses to their  
adversary’s Separate Statements (dkt. no. 119-6 (Pltfs’ Response to Deft’s SSUF)); dkt. no. 121-1 (Deft’s Response to Pltfs’  
SSUF). Because the Court addresses both parties’ motions in this Order, for clarity, the Court outlines here those material  
facts identified as undisputed in the parties’ Responses.

Defendant Allstate Insurance Company insured the Property under its “Deluxe Plus Homeowners Policy – AP337” number 034018984, issued by Allstate for the one-year period beginning January 24, 2021 (the “Policy”). PSUF 6.

The Policy provides primary coverage for the Property as stated in relevant part:

**Losses We Cover Under Coverages A and B:** We will cover sudden and accidental Direct physical loss to property described in Coverage A –Dwelling Protection and Coverage B – Other Structures Protection except as limited or excluded in this policy.

\*\*\*

Section I – Your Property

Coverage A

Dwelling Protection

Losses We Do Not Cover Under Coverages A and B:

We do not cover loss to the property . . . consisting of or caused by:

\*\*\*

12. Collapse, except as specifically provided in Section I –Additional Protection under item 12, “Collapse.”

\*\*\*

We do not cover loss consisting of or caused by any of the following:

15) a) wear and tear, aging,. . . deterioration . . .;

\*\*\*

d) rust or other corrosion . . .;

(DSUF 1, 2; Ex. 1, 3 (Policy at 5, 7).)

The Policy provided additional coverage for policyholders under a section entitled “Additional Protection,” the text of which states, in relevant part:

**Additional Protection**

\*\*\*

12. Collapse

We will cover:

- a) the entire collapse of a covered building structure;
- b) the entire collapse of part of a covered building structure; and
- c) direct physical loss to covered property caused by (a) or (b) above.

1 For coverage to apply, the collapse of a building structure specified in (a) or (b) above  
2 must be sudden and accidental direct physical loss caused by one or more of the  
3 following:

- 4 a) a loss we cover under Section I, Coverage C – Personal Property Protection;
- 5 b) hidden decay of the building structure;
- 6 c) hidden damage to the building structure caused by insects or vermin;
- 7 d) weight of persons, animals, equipment or contents;
- 8 e) weight of rain or snow which collects on a roof;\_\_
- 9 f) defective methods or materials used in construction, repair, remodeling or  
10 renovation, but only if the collapse occurs in the course of such construction,  
11 repair, remodeling or renovation.

12 (*Id.*)

13 In December 2021, Plaintiffs engaged a licensed Professional Engineer, Reg K. Browne,  
14 to inspect the oceanfront Property. (PSUF 1.) In his declaration, Browne states that he visited  
15 the Property in “December 2021 and [on] subsequent visits, and personally observed “that the  
16 steel beam had failed.”<sup>4</sup> (Browne Decl. at ¶ 11.) Browne opined that “[i]n engineering terms,  
17 the word ‘failure’ is synonymous with collapse or inability of a structural element to perform  
18 its intended function which is to support the load it is designed to carry.” (*Id.*) Browne  
19 concluded that “there was a failure of the steel beam on the west side of the house because the  
20 steel beam was no longer able to perform its intended function. Because the steel beam was  
21 part of the house, this part of the structure completely failed or completely collapsed.” (*Id.* at  
22 ¶ 12.) Based on his observations, Mr. Browne told Nathan and Adrienne Stock that they had  
23 to immediately evacuate the Property. (PSUF 2; Brown Decl. ¶¶16, 17.) The Stocks moved  
24 out of the Property and tendered a claim to Defendant under the Policy.

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25  
26 <sup>4</sup> Defendant objects to the Browne Declaration offered in support of Plaintiffs’ Motion as unsigned and unauthenticated.  
27 (Deft’s Response to PSUF 1 (dkt. no. 121-1 at 2).) However, as noted above, the Court may consider evidence that could  
28 be presented in admissible form at trial. Here, because Mr. Browne could testify at trial about his observations of the  
condition of the Property as contained in his Declaration, the Court overrules Defendant’s objections to the Browne  
Declaration and considers that evidence in resolving the Motions.

Months after being notified of the claim, Allstate’s retained counsel, Thomas P. Byron sent a letter dated May 29, 2024 (the “Allstate Coverage Disclaimer Letter”) stating, “it is Allstate’s opinion that there is no coverage for collapse as defined by the Allstate Policy and California Caselaw.” PSUF 7. Allstate’s coverage Disclaimer Letter stated that it identified and analyzed two separate issues to decide if there was coverage for Plaintiffs’ claim: (1) was there an entire collapse of the residence; and (2) was there a partial collapse of the residence. PSUF 9. Allstate’s Coverage Disclaimer Letter acknowledged that the two issues were related but stated that they involved “distinct coverage issues that were analyzed separately.” (*Id.*) Allstate does not dispute that the Disclaimer Letter expresses Allstate’s coverage opinion. PSUF 8.

### EVIDENTIARY OBJECTIONS

The Court may only consider admissible evidence when resolving a motion for summary judgment. FED. R. CIV. P. 56. A party may object that the material used to “dispute a fact cannot be presented in a form that would be admissible in evidence.” FED. R. CIV. P. 56(c)(2). A court must rule on material evidentiary objections. *Norse v. City of Santa Cruz*, 629 F.3d 966, 973 (9th Cir. 2010).

Here, Defendant submitted objections to certain evidence offered by Plaintiffs both in support of Plaintiffs’ own motion and in opposition to Allstate’s. (*See* Allstate’s Objections to Plaintiffs’ Evidence in Support of Their Motion for Partial Summary Judgment (dkt. no. 121-2); and Allstate’s Objections to Plaintiffs’ Evidence in Opposition to Allstate’s Motion for Summary Judgment Or, In the Alternative, Partial Summary Judgment (dkt. no. 126-2).) In addition, Plaintiffs, in responding to Defendant’s separate statement of facts, moved to strike the Declarations of Patrick Axtell and Thomas Byron and objected to several photographs purportedly taken at the Property as irrelevant and lacking foundation. (*See* dkt. no. 119 at 16-21.)

1 As Defendant points out, however, Plaintiffs’ Motion to Strike and other evidentiary  
2 objections embedded in their response to Defendant’s separate statement of facts are improper  
3 and directly contravene this Court’s order directing the parties *not* to argue objections to  
4 evidence in the separate statement of facts. (*See* Deft’s Response to Plaintiffs’ Objections to  
5 Evidence and Motion to Strike, Dkt. No. 126-1 at 2, n. 1 (*citing* Dkt. No. 12, p. 15).)  
6 Accordingly, Plaintiffs’ Motion to Strike is denied. Further, in resolving the parties’ cross-  
7 motions, the Court has only considered admissible evidence. Where this Order cites evidence  
8 to which a party has objected, the objection is impliedly overruled.

## 10 THE PARTIES’ CROSS-MOTIONS

### 12 I. PLAINTIFFS’ MOTION

#### 14 A. Plaintiffs Dispute Allstate’s Coverage Denial

16 Plaintiffs maintain that Allstate’s opinion, as stated in its Coverage Disclaimer Letter,  
17 “is not a correct reading of the policy.” (Pltf’s Motion at 4.) As an initial matter, Plaintiffs  
18 point out that “the term ‘collapse’ is not defined in the Policy.” (*Id.*) Further, Plaintiffs argue  
19 that a “collapse . . . caused by certain conditions and resulting in physical loss, are covered.”  
20 (*Id.* at 4-5.) Specifically, Plaintiffs maintain that the Additional Protection Coverage section  
21 of the Policy does not require that “the collapse” be sudden and accidental, because the Policy  
22 provides coverage for “collapses caused by ‘hidden decay’ thus necessarily covering collapses  
23 that happen gradually over time, and merely requires that such a collapse result in a sudden and  
24 accidental loss.” (*Id.*; *and see id.* at 21-22; 25-26.)

26 Plaintiffs argue that Allstate’s Coverage Disclaimer Letter “concedes that coverage is to  
27 be determined under the Additional Protection section of the [P]olicy,” therefore, the Court  
28 need not engage in the traditional burden shifting analysis used under California law to

determine coverage disputes. (*Id.* at 5 n.2.) Plaintiffs represent that although Coverage A of the Policy provides for certain “Dwelling Protection,” Coverage A is not relevant here because “the Allstate Coverage Disclaimer Letter concedes that coverage must be analyzed under the Additional Protections section.” (*Id.* at 9 n.9.) Indeed, Plaintiffs assert that “because coverage is transferred from Coverage A to the Additional Protection section, any exclusions in Coverage A that might have been applied, are either expressly deleted, or effectively inapplicable due to ambiguity and contradiction.” (*Id.* at 10; 24-26.)

Thus, according to Plaintiffs’ interpretation of the Policy’s provisions, the issues to be resolved here are “whether the Additional Protection section of the [P]olicy covers the collapse of any part of the Plaintiffs’ dwelling that resulted in a sudden and accidental direct physical loss, where that collapse was caused by hidden decay or by the weight of the house and its contents.” (*Id.* at 8-9.) Framing the issues in this fashion, Plaintiffs maintain that their loss “fits squarely within the language of the Allstate policy” and argue that the contract claims at issue are suitable for summary judgment and, as a matter of law, “entirely for the Court to decide.” (*Id.* at 9 (*citing MacKinnon v. Truck Ins. Exchange*, 31 Cal.4th 635, 641 (2003).))

**B. Plaintiffs Argue that the Additional Protection Section Provides Coverage for the Property**

Plaintiffs urge that item 12 of the Additional Protection section of the Policy provides coverage for “a covered building structure” if the collapse of a building structure that is a “sudden and accidental direct physical loss caused by one or more of the following . . . (b) hidden decay of the building structure . . . (d) weight of persons . . . equipment or contents” . . . but “collapse does not include settling, cracking, shrinking, or building or expansion.” (*Id.* at 11 (*citing Policy*).))

\\

1                   **1. Plaintiffs Contend the Policy Language is Ambiguous**

2  
3           According to Plaintiffs, “subpart (b) cannot be read to mean the same as subpart (a),  
4 which requires a collapse of the dwelling structure, itself, because doing so would render  
5 subpart (b) redundant and meaningless.” (*Id.*) Plaintiffs insist that “not only is a collapse of  
6 the whole house covered, but a collapse of any part of the house is covered if it is caused by  
7 ‘hidden decay’ or by the ‘weight of persons . . . equipment or contents.” (*Id.*) Plaintiffs posit  
8 that this is the only interpretation of the Policy’s Additional Coverage provisions that avoids  
9 making coverage illusory. (*Id.* at 21.)  
10

11           Plaintiffs further argue that Allstate’s position, by contrast, would result in a  
12 contradiction in the Policy whereby a collapse is covered under the Additional Protection  
13 provision “if it is caused by ‘hidden decay,’ but not covered unless it is sudden and accidental.”  
14 (*Id.*; citing *Jordan v. Allstate Ins. Co.*, 116 Cal. App. 4th 1206 (2004) (“*Jordan I*.”) According  
15 to Plaintiffs, the Policy does not require that the “collapse” be sudden and accidental, only that  
16 the “resulting loss be sudden and accidental.” (*Id.*) This, according to Plaintiffs, would also  
17 make coverage illusory because “[r]ust and corrosion are forms of decay” and the resulting  
18 damage “was hidden from view.” (*Id.*) Plaintiffs assert that “[t]here is no dispute that as the  
19 beam deteriorated, there was a sudden and accidental loss of support of the weight of the  
20 house.” (*Id.*) Plaintiffs maintain that the result is “conflicting policy language that creates  
21 ambiguity that must be resolved against Allstate.” (*Id.* at 24.)  
22

23           Plaintiffs also argue that because Allstate’s Coverage Disclaimer Letter states only two  
24 grounds for its coverage decision, Allstate has waived or is estopped from raising any other  
25 grounds for its coverage decision that are not stated in the Coverage Disclaimer Letter. (*Id.* at  
26 22-24.) According to Plaintiffs, Coverage A’s exclusions for “collapse” caused by “wear and  
27 tear, aging, . . . deterioration” and for “rust or other corrosion” is eviscerated by the exception  
28 transferring coverage to the Additional Protection section if the collapse fits within “the scope



1 of item 12 of that section.” (*Id.* at 24.) Plaintiffs insist that Allstate cannot rely on the Policy’s  
2 “Coverage A” exclusions because of the alleged ambiguity discussed above and because  
3 Allstate did not rely on those exclusions in its denial of coverage. (*Id.* at 25.)  
4

5 Finally, Plaintiffs insist that Allstate cannot rely on a claim that the “collapse was not  
6 sudden and accidental” because, according to Plaintiffs, the Additional Protection section of  
7 the Policy “does not require that the collapse **itself** be ‘sudden and accidental,’ only that a  
8 collapse result in ‘a sudden and accidental’ **loss.**” (*Id.* (emphasis in original).) Plaintiffs  
9 reiterate their argument that it would be a contradiction in terms for the Policy to cover “a  
10 collapse caused by hidden decay which perforce includes rust or other corrosion which takes  
11 place[] over time, and at the same time to require a ‘sudden and accidental’ collapse.” (*Id.*)  
12

## 13 **2. Plaintiffs’ Evidence: The Declaration of Engineer Reg K. Browne**

14

15 In support of their Policy analysis, Plaintiffs rely on the declaration of professional  
16 engineer, Reg K. Browne, who inspected the Property in December 2021. Browne’s firm,  
17 Pacific Engineering Group, specializes in, among other areas, “coastal engineering and coastal  
18 structures, coastal residential development, and coastal engineering studies,” with a  
19 concentration specifically in Malibu, California. (*Id.* at 12, Browne Decl. ¶¶ 3-5.) Browne,  
20 who inspected and took photographs of the Property, opined that he observed that “the steel  
21 beam had failed.” *Id.* According to Browne, “[i]n engineering terms, the word ‘failure’ is  
22 synonymous with collapse or inability of a structural element to perform its intended function  
23 which is to support the load it is designed to carry.” (*Id.*, Browne Decl. ¶11.)  
24

25 Browne describes “the specific collapsing” as evidenced in the “yielding, deformation,  
26 twisting and deflection of the steel beam which made it useless for its intended function of  
27 carrying the load of the house” and “the wooden nailer attached to the beam also collapsed  
28 because it was crushed and ended up in failure.” (*Id.* at 13, Browne Decl. ¶14.) Browne goes

1 on to observe that “the entire Stock House was in danger of collapsing and would have to be  
2 lifted so that the load could be additionally supported on the newly built concrete columns.”  
3 (*Id.*) He further observed that “[p]ortions of the steel beam were covered and hidden from view  
4 by wooden lagging, and it was only after [a general contractor] exposed the beam, that the  
5 concealed decay and degradation could be observed.” (*Id.*, Browne Decl. ¶ 15.) Browne  
6 further opines that “the collapse of the steel beam . . . put the entire house at risk of a total  
7 collapse. In fact, the entire house was in the process of collapsing and it was necessary to  
8 support it and eventually use hydraulic jacks to lift the entire structure so that it could be  
9 supported by newly installed concrete columns.” (*Id.*, Browne Decl. ¶16.) Browne goes on to  
10 describe what he observed at the Property as “impending serious risk of total collapse.” (*Id.*;  
11 Browne Decl. ¶17.) Browne opines that “the collapse of the steel cap-beam was caused by a  
12 combination of hidden decay from corrosion and the increasing inability of the beam to sustain  
13 the weight of the house and its contents.” (*Id.* at 14-16; Browne Decl. ¶18.) Browne describes  
14 his assessment of the “ongoing degradation of the beam” and engineering remediation work  
15 that was performed on the Property based on his findings. (*Id.* at 14-16; Browne Decl. ¶19.)  
16

17 Plaintiffs further argue that because the facts outlined by Mr. Browne “are undisputed”  
18 and “Allstate has no contrary evidence,” “the loss is covered by the Allstate policy and  
19 Plaintiffs are entitled to summary judgment.” (*Id.* at 19.) According to Plaintiffs, the only way  
20 to give “full effect” to the whole of the contract, as California law requires, is to understand  
21 that the “phrasing of item 12 of the Policy, subparagraph (b), which refers to the ‘entire collapse  
22 of part of a building structure’ must mean that if any part, however small, of the structure has  
23 collapsed ‘due to hidden decay’ or ‘the weight of persons . . . equipment, or contents’ and this  
24 causes a physical loss, the policy covers such loss.” (*Id.* at 20.)  
25

26 \\  
27 \\  
28 \\  
29

1                   **3. Plaintiffs Argue That a Covered “Collapse” Occurred**

2  
3           Plaintiffs represent that Allstate has not offered “admissible evidence in its expert  
4 disclosure to dispute that there was a collapse.” (*Id.* at 26.) Plaintiffs emphasize that “[t]he  
5 policy does not contain a definition of ‘collapse.’” (*Id.*) Plaintiffs also point out that although  
6 Allstate’s coverage denial stated that there was no “substantial evidence of an entire collapse  
7 of any part of the residence,” the Policy does not contain a “substantial evidence” standard and  
8 insist because “this case involves an actual collapse of part of the building structure,” the loss  
9 is covered. (*Id.* at 26-27.) Plaintiffs insist that Allstate’s position is unreasonable. (*Id.* at 27.)  
10

11                   **4. Plaintiffs Maintain the Stocks Suffered a “Sudden and Accidental” Loss**  
12                   **Within the Meaning of the Policy**

13  
14           Plaintiffs also attempt to knock down other arguments that they posit Allstate may  
15 attempt to make. Specifically, Plaintiffs reject Allstate’s conclusion that Mr. Hartwell’s  
16 assessment that “support beams and cross-beams were deflecting and twisting from the weight  
17 of the house” is insufficient evidence to support “an entire collapse of part of the residence”  
18 and likewise does not support “an entire collapse of any part of the residence.” (*Id.*) Plaintiffs  
19 consider Allstate’s position to be “absurd,” insisting that “to say that there has been a ‘partial  
20 collapse of the house’ is to say that a part of the house has collapsed.” (*Id.*) Relying entirely  
21 on the declaration of Professional Engineer Browne, Plaintiffs contend that the evidence shows  
22 that “there has been an ‘entire’ collapse of a part of the house”; “a sudden and accidental direct  
23 physical loss to the house, of the house, or to the insureds.” (*Id.*)  
24

25           Plaintiffs also offer an anticipatory response if Allstate contests the cost of repairs that  
26 Plaintiffs made at the Property, arguing that because Allstate did not cite the cost of repairs as  
27 grounds for denying the claim, Allstate cannot raise any such objection now. (*Id.*) Thus, taking  
28 these arguments together and relying almost exclusively on the Browne Declaration, Plaintiffs

1 argue they are entitled to summary judgment on Counts One and Four of the Complaint,  
2 namely: (1) breach of contract (Count One); and (2) “for declaration that Allstate’s Policy  
3 provides coverage for the collapse loss sustained by the dwelling in question and the additional  
4 Extended Coverage limits of 150% of the Coverage A protection, and that Allstate’s coverage  
5 denial is in bad faith, entitled Plaintiffs to punitive damages and counsel fees” (Count Four).  
6 (*See* FAC, Dkt. No. 64 at 22.).

## 7 8 **II. Defendant’s Opposition**

### 9 10 **a. Count One – Breach of Contract**

11  
12 Allstate presents three primary arguments in support of its position that Plaintiffs’  
13 breach of contract claim (Count One) is fatally deficient. First, Allstate maintains that the plain  
14 language of the Policy precludes coverage because Plaintiffs have not presented any evidence  
15 that the Property, or any part of the Property, suffered an “entire collapse.” (Deft.’s Opp’n at  
16 1, 3-5.)

17  
18 Second, Allstate argues that Plaintiffs’ evidence of long-term rust and excessive  
19 corrosion to the steel I-beams under the residence cannot establish coverage based on a “sudden  
20 and accidental” loss under the “Additional Protection” section of the Policy because undisputed  
21 evidence and testimony offered by Plaintiffs establishes that any decay from rust and corrosion  
22 to the Property’s support beams occurred gradually over time and was not concealed. (*Id.* at  
23 8-11.)

24  
25 Third, Allstate argues that Plaintiffs cannot establish a breach of contract claim because  
26 Plaintiffs failed to fulfill their duty to cooperate with the insurer by: (1) refusing to allow  
27 inspection of the Property before repairs were completed; (2) refusing to provide the insurer  
28 with engineering and contractor documents, including photos and engineering reports, despite

multiple demands from Allstate; (3) failed to provide the necessary documentation evidencing any actual cash value (“ACV”) of their claim; and (4) filed this lawsuit before providing the engineering reports about the condition of the Property and the remediation work done at the Property that was completed before Allstate was eventually permitted to inspect the Property on March 28, 2023. (*Id.* at 4-7.)

As to Count One, Allstate urges that the case can be readily resolved through summary judgment because Plaintiffs are not entitled to coverage under the Policy unless the Property suffered “an ‘entire collapse’ caused by ‘hidden decay.’” (Opp’n at 1.) Allstate does not dispute that the ocean deck steel I-beams at the Property “suffered from *decades* of untreated rust.” (*Id.*) But Allstate maintains that Plaintiffs’ Motion is fatally flawed because the undisputed evidence demonstrates that Plaintiffs cannot establish they are entitled to coverage under the plain language of the applicable Policy provisions. Allstate emphasizes that “Plaintiffs *do not even allege* the property ‘entirely’ collapsed under the proper definition of that term.” (*Id.* (emphasis in original).)

Allstate also argues that Plaintiffs’ Motion fails because Plaintiffs cannot meet *their* burden to show a “sudden and accidental” loss. (*Id.*) Allstate rejects Plaintiffs’ contention that coverage for the failing I-beam at the Property is available under the “Additional Protection” section of the Policy. (*Id.*) Pointing to the analysis in *Jordan I*, 116 Cal. App. 4th at 1210, Allstate maintains that Plaintiffs cannot read the “Additional Coverage” section of the Policy “in isolation without considering the insuring loss provision.” (*Id.*) Furthermore, Allstate argues, “even if the Court accepted that argument, the Additional Protection section repeats the same requirement – the collapse must be ‘sudden and accidental.’” (*Id.*) Allstate rejects Plaintiffs’ argument that the Policy’s coverage provision is somehow ambiguous because, according to Plaintiffs, a “collapse” cannot be both “sudden and accidental” and at the same time “caused by hidden decay.” (*Id.* at 11.) According to Allstate, Plaintiffs’ failure to establish a “sudden and accidental loss” is fatal to Plaintiffs’ Motion. (*Id.* at 8-11.) Finally, Allstate

1 insists that because Plaintiffs have no evidence of a “sudden and accidental” physical loss,  
2 Plaintiffs have failed to meet their burden of providing that the claim comes within the “sudden  
3 and accidental exception under the Policy.” (*Id.* at 12 (citing *Aydin Corp. v. First State Ins.*  
4 *Co.*, 18 Cal. 4th 1183, 1194 (1998))).<sup>5</sup>

5  
6 **b. Declaratory Relief (Count Four)**  
7

8 In light of its arguments about the deficiencies of Plaintiffs’ substantive claims, Allstate,  
9 relying on the plain language of the Policy, urges that Plaintiffs’ Declaratory Relief claim must  
10 fail as a matter of law. (*Id.* at 22-23.) Allstate emphasizes that “declaratory relief is improper  
11 where, as here, plaintiffs have other means of obtaining a determination of their rights,” and  
12 because declaratory relief operates prospectively, and the procedure cannot be used in  
13 situations such as here where “the rights of the complaining party have crystallized into a cause  
14 of action for past wrongs, all relationship between the parties has ceased to exist, and there is  
15 no conduct of the parties subject to regulation by the court.” (*Id.* at 22 (internal citation  
16 omitted).)

17  
18 **III. Plaintiffs’ Reply**  
19

20 Plaintiffs respond that Allstate’s construction of its own policy is incorrect. According  
21 to Plaintiffs, Allstate’s denial of Plaintiffs’ claim was “made without a full, fair and thorough  
22 investigation of all the bases of the claim that was presented” constitutes a breach of the  
23 insurer’s duty of good faith and fair dealing, and, therefore, adequately establishes Plaintiffs’  
24 bad faith claim. (Reply at 1.) Plaintiffs challenge Allstate’s reliance on *Jordan I*, arguing that  
25 the decision the California Court of Appeal “left no doubt that an ambiguous policy MUST be  
26

27  
28 

---

<sup>5</sup> In *Aydin Corp. v. First State Ins. Co.*, the California Supreme Court held that once the insurer carries its burden to prove that an exception applies, “the insured bears the burden of proving that a claim comes within the ‘sudden and accidental’ exception.” *Id.* at 1183, 1194.

1 construed in favor of the policyholder.” (*Id.* (emphasis in original).) Indeed, Plaintiffs maintain  
2 that Allstate misstates the holdings of both *Jordan I* and *Jordan II* and accuses Allstate of a  
3 “deliberate attempt to mislead the Court” as the meaning of the Policy provisions. (*Id.* at 2.)  
4

5 Plaintiffs emphasize that their claim is not for rust or corrosion, “but a claim for a  
6 complete collapse of part of the insured home caused by ‘hidden delay’ or ‘weight of persons,  
7 animals, equipment or contents, as the steel beam collapsed and was no longer able to bear the  
8 load it was designed to carry.’” (*Id.* at 3.) Plaintiffs insist that the Policy does not require that  
9 the “collapse be ‘sudden’ and ‘accidental.’” (*Id.*) Plaintiffs point out that under Additional  
10 Protection, Item 12, the Policy states:

11  
12 For coverage to apply, the collapse of [part of] a building structure must be a  
13 sudden and accidental direct physical loss caused by . . . hidden decay. . . [and/or]  
14 weight of persons, animals or equipment or contents.  
15

16 (*Id.*) According to Plaintiffs, the Policy only requires that the “loss” be sudden and accidental,  
17 not the collapse. Moreover, Plaintiffs argue that the coverage language in the Additional  
18 Protection part of the Policy is not the same as the language in Coverages A and B, which,  
19 Plaintiffs contend, requires the “sudden and accidental direct physical loss **to property**.” (*Id.*  
20 at 3 (emphasis in original).) As to the Stock residence, Plaintiffs emphasize that “[o]ne day,  
21 suddenly, the elderly Stocks were told they needed to immediately evacuate their home and  
22 this was a direct loss of use of the physical structure of their home and a direct physical loss of  
23 protection their home afforded them.” (*Id.* at 3.) Thus, according to Plaintiffs, the need to  
24 “immediately evacuate” the Property “established a sudden and accidental loss as required by  
25 the Policy” because the Stocks “lost the use of their home, they lost the physical possession of  
26 their home, and it was a loss **to them**.” (*Id.* at 4 (emphasis in original).)  
27  
28

1 Plaintiffs reject Allstate’s reliance on the analysis in *Shell Oil v. Winterthur*, 12 Cal.  
2 App. 4th 715 (1993), regarding the meaning of “sudden” loss to establish that rust is not a  
3 “sudden” occurrence. (*Id.* at 5.) Plaintiffs acknowledge that Allstate’s interpretation of the  
4 Policy language is plausible, but maintain that under controlling California law, “the  
5 interpretation that favors the insured controls.” (*Id.*) Plaintiffs insist that their claim “is not for  
6 rust/corrosion,” but a “claim for a complete collapse of a part of the structure.” (*Id.* at 7.)  
7 Plaintiffs reiterate their argument that “the Policy simply does not state that that the ‘collapse’  
8 has to be ‘sudden’ and ‘accidental’, but rather that the ‘loss’ resulting from the hidden decay  
9 inducing the collapse must be a ‘sudden and accidental loss.’” (*Id.* at 7 (citing Policy,  
10 Additional Protection, Item 12, Page 14).)

11  
12 Plaintiffs insist that the Browne Declaration offers uncontroverted dispositive evidence  
13 that a “collapse” occurred at the Property that is covered by the Policy.<sup>6</sup> (*Id.* at 9-10.) Plaintiffs  
14 argue that the word “collapse” is undefined in the Policy, therefore, “Allstate’s failure to  
15 specify what it meant creates doubt or ambiguity in the Policy that must be construed against  
16 Allstate.” (*Id.* at 10.) In response to Allstate’s argument that portions of the I-Beam that were  
17 affected by corrosion and rust were not concealed, Plaintiffs point to the photographic evidence  
18 that Allstate included with its Opposition to argue that the photograph “does show holes in the  
19 I-beam that collapsed that were caused by rust,” and Plaintiffs emphasize that “this portion of  
20 the I-beam was entirely concealed by wood lagging until the lagging was removed by Plaintiffs’  
21 contractor.” (*Id.* at 10.)

22  
23  
24  
25 <sup>6</sup> Plaintiffs respond to Allstate’s objection that the Brown Declaration is not competent evidence because it was unsigned  
26 and undated by explaining that the declaration was signed and dated, but that a “quirk” in the Court’s CM/ECF platform  
27 caused the date and signature on the uploaded document to be “scrambled and partially missing.” (*Id.* at 8, n.1.) Plaintiffs  
28 state that they were “able to fix the issue” and the signature and date clearly appear on the document submitted as an Exhibit  
to Plaintiffs’ Opposition to Allstate’s Amended Motion to Summary Judgment. (*Id.*) The Court declines to strike the  
Browne Declaration based on what appear to have been technical issues with the CM/ECF platform. Moreover, insofar as  
Mr. Browne’s testimony could be presented in admissible form at trial, the Court treats the Browne Declaration as  
admissible evidence for purposes of the resolving the instant Motion.



1 Plaintiffs reject Allstate’s arguments that Plaintiffs breached various Policy provisions  
2 by failing to cooperate with Allstate’s efforts to investigate the claim. (*Id.* at 11.) Plaintiffs  
3 point to evidence offered in their Opposition to Allstate’s *Amended* Motion for Summary  
4 Judgment to argue that Allstate waived any noncooperation claim because it denied liability to  
5 Plaintiffs under the Policy. (*Id.* 11-12.) Indeed, Plaintiffs point to Attorney Byron’s May 7,  
6 2024 email as representing an “express waiver that is fatal to its defenses of noncooperation  
7 and the like.” (*Id.* at 13.)

## 8 9 **DISCUSSION AND ANALYSIS RE: PLAINTIFFS’ MOTION**

### 10 11 **A. CALIFORNIA LAW RE: INSURANCE CONTRACT INTERPRETATION**

12  
13 Under California law, when interpreting insurance contracts, “ordinary rules of  
14 contractual interpretation apply.” *Palmer v. Truck Ins. Exchange*, 21 Cal. 4th 1109, 1115  
15 (1999) (citing *Bank of the West v. Sup. Court*, 2 Cal. 4th 1254, 1264 (1992) (“Bank of the  
16 West”)). If the language of the policy “is clear and explicit, it governs.” *Bank of the West*, 2  
17 Cal. 4th at 1265. When interpreting a policy provision, courts give its terms their “‘ordinary  
18 and popular sense,’ unless ‘used by the parties in a technical sense or a special meaning is given  
19 to them by usage.’” *Palmer v. Truck Ins. Exchange*, 21 Cal. 4th at 1115 (internal citation  
20 omitted). Terms must be interpreted “in context” to give effect “to every part” of the policy  
21 with “each clause helping to interpret the other.” *Id.* (citing Cal. Civ. Code § 1641). The  
22 California Supreme Court has emphasized that with insurance contracts, as with all contracts,  
23 “[t]he fundamental goal of contractual interpretation is to give effect to the mutual intent of the  
24 parties.” *La Jolla Beach & Tennis Club, Inc., v. Indus. Indem. Co.* 9 Cal.4th 27, 37 (1995)  
25 (internal citations omitted).

26  
27 Where, as here, coverage is disputed, the insured bears the initial burden “to prove its  
28 claim falls within the scope of potential coverage.” *Waller v. Truck Ins. Exchange, Inc.*, 11

1 Cal. 4th 1, 16 (1995). If the insured establishes that there is at least the potential of coverage  
2 under the policy, then the burden shifts to the insurer, in this case Allstate, to show that  
3 Plaintiffs' claim falls within one of the policy's exclusions. *Id.* Policy exclusions are strictly  
4 construed. *MacKinnon*, 31 Cal. 4th at 648. Exclusions to exceptions are broadly construed in  
5 favor of the insured. *Aydin Corp.*, 18 Cal. 4th at 1192. When interpreting insurance contracts,  
6 doubts are resolved in favor of the insured. *Bank of the West*, 2 Cal. 4th at 1266. Coverage  
7 clauses are typically construed broadly, while exclusionary clauses are interpreted narrowly  
8 against the insurer. *Consolidated American Ins. v. Mike Soper Marine Svcs.*, 951 F.2d 186,  
9 188-89 (9th Cir. 1991).

10  
11 At issue here is whether the Plaintiffs have presented sufficient evidence to establish  
12 that the Property suffered a "sudden and accidental collapse" within a provision of the Policy  
13 that covers "collapse" and is not subject to an exclusion under the Policy. Thus, both parties'  
14 respective Motions present questions of contract interpretation. Because interpretation of an  
15 insurance policy is a question of law, this coverage dispute is uniquely situated for disposition  
16 on summary judgment. *Waller*, 11 Cal. 4th at 18.

17  
18 **B. PLAINTIFFS' COUNT ONE: BREACH OF CONTRACT**

19  
20 Plaintiffs' complaint alleges a claim for breach of contract. Under California law, the  
21 elements of a breach of contract claim in an insurance coverage dispute are: (1) the existence  
22 of a policy; (2) Plaintiffs' performance under the policy or excuse for nonperformance; (3)  
23 Defendant's breach; and (4) resulting damages suffered by the Plaintiffs. *Oasis W. Realty,*  
24 *LLC*, 51 Cal. 4th 811, 821 (2011). "The burden is on the insured to establish that the occurrence  
25 forming the basis of its claim is within the basic scope of insurance coverage." *Aydin Corp.*,  
26 187 Cal. 4th at 1188.

1 The existence of the Policy and its enforceability is undisputed. Nate and Adrienne  
2 Stock purchased insurance coverage for the Property under a Deluxe Plus Homeowners Policy  
3 issued by Allstate, Policy Number 034 018 984, with a policy effective date of January 24,  
4 2021, for a Policy period beginning January 24, 2021, through January 24, 2022, at 12:01 a.m.  
5 Pacific time, and continuing until cancelled.<sup>7</sup> (PSUF 6, Dkt. No. 121-1 at 12; *and see* Dkt. No.  
6 106-4 at 6-7.) That said, the parties' respective performance under the Policy is vigorously  
7 disputed. Plaintiffs maintain that Allstate breached its obligations under Policy "by wrongfully  
8 disclaiming coverage and refusing to pay for claims covered by the policy[.]" (Pltfs.' Motion  
9 at 2.) Allstate acknowledges that Plaintiffs reported a claim, but argues that Plaintiffs' loss  
10 does not fall within in the Policy's coverage provisions and Plaintiffs breached their obligations  
11 under the Policy as insureds to "fully cooperate with Allstate's investigation before filing a  
12 lawsuit." (Deft.'s Opp'n at 4.)

13  
14 The undisputed evidence establishes that between April and June 2022, Allstate made  
15 five requests for documents from Hartwell Brothers Construction and/or Pacific Engineering  
16 and five times asked if the residence could be made available for inspection. (*Id.* at 4-5 (citing  
17 NOFE, e-mail correspondence Exs. 8-10 and Stock Depo. 163:9-15; 18:1:1-21).) In March  
18 2023, when repairs at the Property were "mostly complete," Allstate was permitted to inspect  
19 the Property. (*Id.* at 6.) Despite multiple requests by Allstate, Plaintiffs did not, prior to repairs  
20 at the Property, provide any photos or expert reports of "what the [P]roperty looked like at the  
21 time of the loss[.]". (*Id.*)

22  
23 Allstate emphasizes that between April 4, 2023, and May 8, 2023, Allstate asked six  
24 times for any photos of the Property at the time of the loss, but Plaintiff represented on May 8,  
25 2023, that there were no photographs "of the damage prior to the completion of repairs," a  
26 statement that Mr. Lawrence Stock later acknowledged was not true. (Deft.'s Opp'n at 6 (*citing*

27  
28 <sup>7</sup> There is no evidence before the Court or any suggestion by the parties that the Policy was ever cancelled prior to the events that gave rise to this lawsuit.

1 NOFE Ex. 25, Stock Depo. 220:11-22; 139:21-140:5).) Further, Mr. Stock admitted under oath  
2 that he did not provide the materials relating to the vendor who worked on repairing the  
3 Property until 2024. (*Id.* (*citing* NOFE Ex. Ex. 17, Stock Depo. 227:18-228:25; 229: 10-18).)  
4 Thus, in light of this evidence, Allstate insists that Plaintiffs breached their obligations under  
5 the Policy by failing to cooperate with Allstate’s efforts to investigate the claim. (*Id.* at 5.)  
6

7 To resolve Plaintiffs’ Motion, the Court must assess the trial admissible evidence to  
8 determine whether either party breached its obligations under the Policy; whether Allstate acted  
9 in bad faith in denying Plaintiffs’ claim; and whether Plaintiffs are entitled to declaratory relief.  
10 Therefore, as outlined above, the Court reviews the language of the Policy applying settled  
11 principles of insurance contract interpretation under California law. California rules of  
12 construction regarding insurance policies require that any ambiguities in the Policy must be  
13 resolved in favor of the insured. *Baker v. Centennial Ins. Co.*, 970 F.2d 660, 661 (1992) (*citing*  
14 *Reserve Ins. Co. v. Pisciotto*, 30 Cal. 3d 800 (1982)).  
15

16 **a. The Policy Provisions at Issue**  
17

18 **i. Coverage A and B**  
19

20 The following sections of the Policy’s coverage provisions are directly relevant to the  
21 parties’ Motions. In the Definitions section, the Policy defines “Building structure” as meaning  
22 “a structure with walls and a roof.” (Dkt. No. 106-4 at 13.) The Policy specifies the following  
23 “losses” covered under Coverages A and B:  
24

25 **We will cover sudden and accidental direct physical loss to property described**  
26 **in Coverage A —Dwelling Protection and Coverage B—Other Structures**  
27 **Protection** except as limited or excluded in this policy.  
28

....

**Losses We Do Not Cover Under Coverages A and B:**

**12.** Collapse, except as specifically provided in **Section I — Additional Protection** under item 12, “Collapse.”

(Dkt. No. 106-4 at p. 17 (bold in original).)

**ii. Additional Protection**

As relevant here, Plaintiffs’ Policy provided the following **Additional Protection**

**1. Additional Living Expense**

a. We will pay the reasonable increase in living expenses necessary to maintain **your** normal standard of living when a direct physical loss **we** cover makes **your residence premises** uninhabitable.

Payment for covered additional living expense will be limited to the least of the following:

- (1) The time period required to repair or replace the property **we** cover, using due diligence and dispatch; or
- (2) If **you** permanently relocate, the shortest time for **your** household to settle elsewhere;
- (3) 12 months.

(*Id.* at p. 23 (bold in original).)

**iii. Collapse**

**12. Collapse**

**We will cover:**

1 a. The entire collapse of a covered **building structure**:

2 b. The entire collapse of a part of a covered **building structure**; and

3 c. Direct physical loss to covered property caused by (a) or (b) above.

4 For coverage to apply, the collapse of a **building structure** specified in (a) or  
5 (b) above must be a sudden and accidental direct physical loss caused by one  
6 or more of the following:

7 a. A loss we cover under Section I, Coverage C – Personal Property  
8 Protection;

9 b. Hidden decay of the building structure;

10 c. Hidden damage to the building structure caused by insects or vermin;

11 d. Weight of persons, animals, equipment or contents;

12 e. Weight of rain or snow which collects on a roof;

13 f. Defective methods or materials used in construction, repair, remodeling  
14 or renovation, but only if the collapse occurs in the course of such  
15 construction, repair, remodeling or renovation.

16  
17 (Dkt. No. 106-4 at p. 14 (bold in original).)

18  
19 **b. Plaintiffs Have Not Met Their Burden to Establish a**  
20 **“Entire Collapse” As Required Under the Policy**  
21

22 Plaintiffs contend that they are entitled to summary judgment on their breach of contract  
23 claim (Count One) because Allstate breached the insurance contract by “wrongfully  
24 disclaiming coverage and refusing to pay for claims covered by the policy.” (Pltfs.’ Motion at  
25 2.) According to Plaintiffs, the Property suffered a “total collapse” caused by a steel support  
26 cap-beam underpinning the residence that had become degraded by concealed corrosion. (*Id.*  
27 at 12-13.) Plaintiffs rely largely on the Declaration of Professional Engineer, Reg K. Browne,  
28

1 who inspected the Property in December 2021 at the request of the Stocks. (PSUF 1-3;  
2 Plaintiffs' Supporting Evidence ("PSE") at 2-3 (Browne Decl. ¶¶ 11-13).)

3  
4 Mr. Browne offered, *inter alia*, the following opinions, based upon his "personal  
5 observations starting in December 2021 and subsequent visits,"

- 6  
7
- 8 • "there was a failure of the steel beam on the west side of the [Stocks'] house be  
9 cause the steel beam was no longer able to perform its' intended function.  
10 Because the steel beam was part of the house, this means that this part of the  
11 structure completely failed or completely collapsed."
  - 12 • "From *an engineering standpoint*, the terms 'failure' and 'collapse' are  
13 synonymous."
  - 14 • "specific collapsing was seen in the yielding, deformation, twisting, and  
15 deflection of the steel beam which made it useless for its intended function of  
16 carrying the load of the house that it was designed and intended to carry."
  - 17 • "the wooden nailer attached to the beam also collapsed because it was crushed  
18 and ended up in failure."
  - 19 • "the entire Stock House was in *danger of collapsing* . . ."

20 (PSUF 3-5; PSE at 2 (Browne Decl. ¶¶ 11-13 (emphasis added))).) Browne further opined that  
21 "the collapse of the steel beam, in turn, put the entire house *at risk of a total collapse*," the  
22 "entire house was in *the process of collapsing*," and because there was "*impending serious risk*  
23 *of a total collapse* of the entire structure," Browne advised the Stocks that they should  
24 immediately vacate the house. (PSUF 2; PSE at 3 (Browne Decl. ¶¶ 16-17 (emphasis added))).)

25  
26 Whether Plaintiffs characterize the deterioration of the steel support beam at the Stocks'  
27 residence as a "covered building structure" or a "part of a covered building structure," the  
28 Policy unambiguously states that coverage is provided for an "**entire** collapse of a covered

1 building structure” or the “**entire** collapse of a part of a covered building structure.” (Dkt. No.  
2 106-4 at p. 14 (bold in original).) Plaintiffs, through the opinions of their engineering expert,  
3 urge that the Court need not read the Policy language literally, and to ignore the word “entire”  
4 that modifies the word “collapse” in the Additional Coverage provisions. Plaintiffs maintain  
5 that the Court can, instead, adopt a meaning of “entire collapse” as used “in the engineering  
6 sense” or assume that evidence of the possibility of “imminent collapse,” as described by Mr.  
7 Browne, is sufficient to trigger coverage under the Policy’s provisions. Not so. Plaintiffs’  
8 interpretation would have the Court contravene well settled statutory principles of contract  
9 interpretation. *Reserve Insurance Co.*, 30 Cal. 3d at 807 (“Words used in an insurance policy  
10 are to be interpreted according to the plain meaning which a layman would ordinarily attach to  
11 them.”).

12  
13 **c. Plaintiffs Fail to Establish a Triable Issue of Fact as to a “Sudden and**  
14 **Accidental” Loss Within the Meaning of the Policy**  
15

16 In the Opposition, Allstate makes several arguments related to Plaintiffs’ alleged failure  
17 to cooperate with the insurer in its efforts to inspect the property and investigate the claim.  
18 (Opp’n at 4-7.) These arguments, however, are not relevant to or dispositive of the fundamental  
19 coverage dispute. On the coverage question, Allstate’s primary argument is that Plaintiffs’  
20 Motion fails because Plaintiffs have not and cannot establish the occurrence of a “sudden and  
21 accidental loss” to the Property that is within the coverage provisions of the Policy. (Opp’n at  
22 8-17.)  
23

24 As noted above, under California law, the interpretation of a contract must give effect  
25 to the ‘mutual intention’ of the parties. Such intent is to be inferred, if possible, solely from  
26 the written provisions of the contract. *MacKinnon*, 31 Cal. 4th at 647 (citing Cal. Civ. Code §  
27 1636). Insurance policy exclusions are strictly construed and “the burden rests upon the insurer  
28 to phrase exceptions and exclusions in clear and unmistakable language.” *Id.* at 648 (internal



1 citation omitted). Here, the admissible evidence does not support Plaintiffs' contentions either  
2 as to a "total collapse" of any part of the Property or as to a "sudden and accidental" loss of  
3 any part of the Property resulting from the degraded cap-beam. Moreover, the Court finds no  
4 ambiguity in the Policy language as to "entire collapse" or "sudden and accidental".

5  
6 Coverage A and B expressly exclude any "collapse" event, *except* as specifically  
7 provided in **Section I — Additional Protection** under item 12, "Collapse", which states:

8  
9 We will cover:

- 10 a. The entire collapse of a covered **building structure**;  
11 b. The entire collapse of a part of a covered **building structure**;  
12 and  
13 c. Direct physical loss to covered property caused by (a) or (b)  
14 above.

15 For coverage to apply, the collapse of a **building structure** specified  
16 in (a) or (b) above must be a sudden and accidental direct physical loss  
17 caused by one or more of the following:

- 18 a. A loss **we** cover under Section I, Coverage C – Personal Property  
19 Protection;  
20 b. Hidden decay of the building structure;  
21 c. Hidden damage to the building structure caused by insects or  
22 vermin;  
23 d. Weight of persons, animals, equipment or contents;  
24 e. Weight of rain or snow which collects on a roof;  
25 f. Defective methods or materials used in construction, repair,  
26 remodeling or renovation, but only if the collapse occurs in the  
27 course of such construction, repair, remodeling or renovation.

28 (Dkt. No. 106-4 at 14 (*italics added; bold in original*)).) Because Coverage A and B expressly  
exclude any coverage for "collapse" except as provided in the Additional Coverage language  
of the Policy, the provision in Additional Protection, item 12, is the only provision that could  
potentially be the source of coverage for any loss arising from a "collapse." Plaintiffs  
acknowledge as much. (Pltfs.' Motion at 5.)

1 Where, as here, the parties dispute the meaning of an insurance policy’s terms, courts  
2 regularly look to the dictionary to determine the ordinary meaning of language in an insurance  
3 policy. *See Scott v. Continental Ins. Co.*, 44 Cal. App. 4th 24, 29 (1996) (collecting cases).  
4 The Concise Oxford English Dictionary defines “collapse,” when used as a verb, as: “(of a  
5 structure) suddenly fall down or give way . . . fall suddenly and completely,” and when used  
6 as a noun, “sudden failure or breakdown.” Indeed, the Ninth Circuit, interpreting the  
7 “Additional Coverage” language in an Allstate homeowner policy with language requiring  
8 ‘actual’ collapse, expressly rejected the notion that a condition of “imminent collapse” is  
9 sufficient to meet the policy’s requirement. *Jordan I*, 116 Cal. App. 4th at 1221 (“If the  
10 collapse portion of the ‘additional coverage’ provision is read to require an ‘actual’ collapse,  
11 then a state of ‘imminent’ collapse would not support Jordan’s claims.” (internal citations  
12 omitted).)

13  
14 Notably, *Jordan I* involved, as here, an expert who opined that a portion of the *Jordan*  
15 policyholder’s floor at her residence was at risk of “imminent collapse.” *Id.* But the Ninth  
16 Circuit emphasized:

17  
18 It seems self-evident that the policy’s use of the term entire collapse necessary  
19 must refer to an actual, not an imminent collapse. For a building or a portion  
20 thereof to sustain an entire collapse must mean that it has *entirely* collapsed, that  
21 is wholly, completely, or fully. Put another way, to constitute an entire collapse,  
22 there must be a total collapse. It would make no sense to apply such a description  
23 to a collapse that was merely imminent. Whether a potential collapse that is  
24 properly described as imminent will result in an entire or total collapse or  
25 something less, or no collapse at all, is a matter of pure speculation unless and  
26 until such collapse actually occurs

27 (*Id.* (italics in original, internal quotation marks omitted (citing Webster’s Third New  
28 International Dictionary (1966))).) In *Jordan I*, the Ninth Circuit concluded that the factual  
record on the issue had not been adequately developed in the district court. (*Id.*) That is not

1 the case here. On the record before this Court, Plaintiffs offer no evidentiary support that  
2 establishes an “entire collapse” of all or part of the Stock residence.

3  
4 Plaintiffs insist that, because Mr. Browne opined that the steel beam “was no longer able  
5 to perform its intended function,” that opinion is sufficient to establish that the Property  
6 suffered an “entire collapse” of the structure of part of the structure. Not so. Mr. Browne’s  
7 professional opinion cannot re-write the plain language of the Policy. While the record  
8 indicates that the Property suffered damage as a result of the cap-beam’s long term corrosion  
9 and deterioration, the evidence presented with the parties’ summary judgment motions in this  
10 case is more than sufficiently developed to establish that the Stock residence at no time  
11 evidenced an “entire” collapse of the structure or a part of the structure as required under the  
12 express language in the Additional Coverage provision of the Policy.

13  
14 The plain language in the Policy’s Additional Coverage provision required not only an  
15 “entire collapse,” but the Additional Coverage provision, item 12 (a) or (b), expressly state that  
16 “the collapse of a **building structure** specified in (a) or (b) above must be a *sudden and*  
17 *accidental* direct physical loss . . .” (Dkt. No. 106-4 at 14 (italics added).) There is no evidence,  
18 admissible or otherwise, before the Court to satisfy the “sudden and accidental” requirement  
19 under the applicable language of the Policy.

20  
21 Lawrence Stock testified at his deposition that between October 1, 2021, and December  
22 31, 2021, other than rust particles, he did not see any other building materials that had become  
23 completely detached or completely fallen off of the property in any area. (NOFE, Ex. 25, Stock  
24 Depo. Nov. 5, 2024, at 54:2-10 (Dkt. No. 106-10 at 73).) Mr. Browne states that he inspected  
25 the Stock residence in December 2021, where he was able to walk under the residence and  
26 personally observed the weakened, but still standing, steel cap-beam support and posited that  
27 a “collapse *likely* occurred in October 2021.” (Pltfs.’ Supporting Evidence (“PSE”) Dkt. No.  
28 105-2 at 3; Browne Decl. ¶¶ 9-10, 19 (emphasis added).) Taking Mr. Browne’s testimony at

1 face value, as the Court must, there is no evidence that demonstrates, or even suggests, either  
2 a “sudden” or “accidental” occurrence caused by the steel cap-beam’s long-term deterioration.  
3 Corrosion due to rust in an ocean front residence such as the Stocks’ is by definition a process  
4 that manifests over time. Indeed, Plaintiffs’ own expert, Mr. Browne, based on his professional  
5 engineering experience and training, opined that the deterioration of the cap beam was the result  
6 of *gradual* deterioration/corrosion over time. (Pltfs.’ Reply, Ex. A, Browne Decl. ¶ 18 (stating  
7 “. . .this beam had over time gradually disintegrated into pieces”) (Dkt. No. 124-1).)

8  
9 In an effort to avoid the fatal absence of evidence, Plaintiffs attempt to re-write the plain  
10 language of the Policy, arguing that the Policy:

11  
12 does not state that the ‘collapse’ must be ‘sudden’ and ‘accidental.’ Rather, the  
13 Policy states, “for coverage to apply, the collapse of [*part of*] a building structure  
14 must be a sudden and accidental direct physical loss caused by . . . hidden decay  
15 . . .[and/or] weight of persons, animals, equipment or contents.

16  
17 (Reply at 3.) This argument is unavailing. Plaintiffs’ reading of the Policy’s “sudden and  
18 accidental” language is inconsistent with fundamental principles of contract interpretation,  
19 which require that words in the Policy be given “the plain meaning which a layman would  
20 ordinarily attach to them.” *Reserve Insurance Co.*, 30 Cal. 3d at 807.

21  
22 Plaintiffs further argue that summary judgment in their favor is appropriate here because  
23 “the elderly Stocks suffered the sudden and accidental loss of their home when they were  
24 abruptly required to vacate the premises.” (Pltfs.’ Motion at 22.) According to Plaintiffs, when  
25 “[o]ne day, suddenly, the elderly Stocks were told to immediately to evacuate their home,” this  
26 unexpected departure “was a direct loss of the physical structure of their home and a direct  
27 physical loss of the protection their home afforded them.” (Pltfs.’ Reply at 3.) Thus, according  
28 to Plaintiffs, the Stocks’ sudden departure from the home was sufficient to trigger Allstate’s

1 coverage obligation under the Policy pursuant to the Additional Coverage provision for  
2 “sudden and accidental direct physical loss[.]” (*Id.* at 3-4.) Plaintiffs insist that Allstate fails  
3 to acknowledge the distinction between “physical loss to property” and “physical loss  
4 *simpliciter*,” pointing to exceptions in Coverages A and B sections of the Policy for “theft” as  
5 demonstrating that “the Policy covers more than direct physical loss.” (*Id.*) But Plaintiffs’  
6 attempt to create an ambiguity in the Policy by analogizing from the Coverage A and B  
7 exceptions is unavailing.

8  
9 Under the Policy’s plain language, any coverage for a “sudden and accidental” collapse  
10 of the structure or a part of the structure arises from the Additional Protection section of the  
11 Policy. (Dkt. No. 106-4 at 25, (Policy at 14).) Plaintiffs’ argument for coverage by analogy  
12 related to a different section of the Policy goes against settled principles of insurance contract  
13 interpretation under California law. Indeed, Plaintiffs cite no authority, in this Circuit or  
14 beyond, that has construed similar policy language consistent with the interpretation that  
15 Plaintiffs urge.

16  
17 Plaintiffs contend that because the Stocks lost physical *possession* of their home during  
18 repairs to the Property, this was a “loss to them” that the “Policy clearly covers . . . by virtue  
19 of the difference in language in the collapse coverage of the Additional Protection Part from  
20 the limiting language of Coverage A on which Allstate mistakenly relies.” (*Id.* at 4.) Once  
21 again, Plaintiffs’ reading of the Policy language contravenes settled principles of contract  
22 interpretation. The California Supreme Court has emphasized that while ambiguities in an  
23 insurance policy must be resolved in favor of the insured, “courts will not adopt a strained or  
24 absurd interpretation in order to create an ambiguity where none exists.” *Reserve Ins. Co.*, 30  
25 Cal. 3d at 767-68. This Court, despite Plaintiffs fervent urging, declines to do so here.

26  
27 Indeed, Plaintiffs cannot change the plain language of the Policy to bring the damage  
28 that occurred at the Property resulting from the corroded cap-beam within the Policy’s coverage

1 provisions for an “*entire* collapse” resulting from a “sudden and accidental” occurrence.  
2 Plaintiffs’ failure to offer admissible evidence to establish that Allstate was required to provide  
3 coverage under the Policy is fatal to Plaintiffs’ breach of contract claim.

4  
5 Thus, the Court concludes that Plaintiffs fail to present evidence that raises a triable  
6 issue of fact as whether the Property suffered an “entire collapse” of the structure or part of the  
7 structure that was “sudden and accidental” as the plain language of Policy required.

8  
9 Consequently, Plaintiffs’ Motion for Partial Summary Judgement as to Breach of  
10 Contract as alleged in Count One is DENIED.

11  
12 **C. PLAINTIFFS’ COUNT FOUR: DECLARATORY RELIEF**

13  
14 Plaintiffs also seek summary judgment on Count Four of the FAC, which asserts a claim  
15 for declaratory relief. (FAC at 22.) When, as here, a federal court sits in diversity, it must  
16 apply the substantive law of the forum state. *See Griffin v. Green Tree Servicing, LLC*, 166 F.  
17 Supp. 3d 1030, 1059 (C.D. Cal. 2015) (citing, inter alia, *Erie R.R. v. Tompkins*, 304 U.S. 64,  
18 78 (1939).) Thus, as emphasized in *Griffin*, “Federal courts have consistently applied  
19 California Code of Civil Procedure § 1060 to assess the validity of a declaratory relief claim  
20 rather than the federal Declaratory Judgment Act when sitting in diversity.” *Id.* Therefore,  
21 because California law applies in this case, the Court must apply California’s declaratory relief  
22 statute to Plaintiffs’ claims.

23  
24 California Code of Civil Procedure section 1060 provides:

25  
26 Any person interested under a written instrument ... or under a contract, or who  
27 desires a declaration of his or her rights or duties with respect to another, or in  
28 respect to, in, over or upon property . . . may, in cases of actual controversy

1 relating to the legal rights and duties of the respective parties, bring an original  
2 action . . for a declaration of his or her rights and duties[.]

3  
4 Cal. Code Civ. Proc. § 1060.

5  
6 In their Reply, Plaintiffs state that their Motion “asks, at this time, for a declaratory  
7 judgment stating only that the Policy covers the losses that Plaintiff suffered.” (Pltfs.’ Reply  
8 at 13.) But Plaintiffs have failed to meet their burden to present evidence sufficient to establish  
9 the existence of an element essential to Plaintiffs’ breach of contract claim, namely that Allstate  
10 breached the Policy provisions. The unambiguous language of the Policy excludes the losses  
11 suffered by the Property due to the long-term degradation and corrosion of the cap-beam.  
12 Further, Plaintiffs fail to present evidence to show that there are disputed issues of fact that  
13 warrant a trial on the issue. Accordingly, Plaintiffs’ claim for declaratory judgment also fails.  
14 *See Javaheri v. JPMorgan Chase Bank, N.A.*, No. 2:10-cv-08185-ODW (FFMx), 2012 WL  
15 6140962, at \*8 (C.D. Cal. Dec. 11, 2012).

16  
17 For all the reasons outlined above, Plaintiffs’ Motion for Partial Summary Judgment as  
18 to Declaratory Relief as alleged in Count Four is DENIED.

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**DEFENDANT’S MOTION**

Allstate brings its own motion for full or partial summary judgment on the breach of contract claims for at least four separate reasons: 1) Plaintiffs cannot meet their burden to establish that long term rust problem at the oceanfront Property was a “sudden” and “accidental” occurrence – a condition precedent for coverage under the Policy; (2) Plaintiffs cannot establish a covered collapse; (3) Plaintiffs failed to cooperate “with Allstate’s investigation by failing to provide access to the property before they completed repairs and by failing to provide documents, including engineering reports and property photographs – before suing”; and (4) the Stocks did not provide the ACV of a covered loss, which prejudiced Allstate because, under the Policy Allstate only owed the ACV of the loss. (Deft.’s Motion at 1.)

In its *Amended* Motion, Allstate articulates each of the separate issues on which it seeks complete or partial relief as follows:

Motion for Complete Summary Judgment:

- (a) Issue No. 1 – Plaintiffs’ “breach of contract” fails because Plaintiffs cannot meet their burden in establishing a “sudden” and “accidental” loss;
- (b) Issue No. 2 – Plaintiffs’ “breach of contract” cause of action fails because Plaintiffs cannot establish a “sudden” and “accidental” collapse;
- (c) Issue No. 3 – alternatively, Plaintiffs’ breach of contract cause of action fails because Plaintiffs cannot establish a breach of any payment provision within the Policy;
- (d) Issue No. 4 – alternatively, Plaintiffs’ breach of contract cause of action fails because Plaintiffs breached their cooperation duties under the Policy;
- (e) Issue No. 5 – alternatively, Plaintiffs’ breach of contract cause of action fails because Plaintiffs failed to comply with the Policy provisions for claiming



1 Policy benefits before suing Allstate, “including the failure to provide ‘a  
2 detailed list of the damaged [or] destroyed. . . property, showing the quantity,  
3 cost, [ACV] and the amount of loss claimed.’”  
4

5 Motion for Partial Summary Judgment:  
6

7 (a) Issue No. 1: Allstate has no duty to pay dwelling repair benefits because  
8 Plaintiffs failed to comply with the Policy provisions for claiming Policy  
9 benefits before suing Allstate, “including the failure to provide ‘a detailed list  
10 of the damaged [or] destroyed. . . property, showing the quantity, cost, [ACV]  
11 and the amount of loss claimed.’” For all these reasons, Allstate maintains  
12 the undisputed evidence establishes it did not breach the contract;

13 (b) Issue No. 2: Plaintiffs’ breach of contract cause of action fails because  
14 Plaintiffs cannot establish that they are entitled to additional living expenses:

15 (c) Issue No. 3: Plaintiffs second cause of action for “breach of the implied  
16 covenant of good faith and fair dealing” lacks merit because: Allstate had a  
17 right to withhold policy benefits until Plaintiffs complied with the policy  
18 terms; there was a genuine dispute over coverage, and there is no evidence of  
19 bad faith;

20 (d) Issue No. 4: Plaintiffs’ second cause of action for breach of the implied  
21 covenant of good faith and fair dealing” lacks merit because “Allstate  
22 reasonably relied upon the advice of counsel in denying Plaintiffs’ claim”;

23 (e) Issue No. 5: Plaintiffs’ third cause of action for “bad faith based on unfair or  
24 deceptive acts or practices constituting unfair claims settlement practices and  
25 common law bad faith” fails because this cause of action is duplicative of the  
26 second cause of action; Allstate had a right to withhold policy benefits until  
27 Plaintiffs complied with the Policy; there is a genuine dispute concerning  
28

1 coverage; there is no evidence of bad faith; and Allstate reasonably relied on  
2 the advice of counsel in denying Plaintiffs' claim;

3 (f) Issue No. 6: Plaintiffs' fourth cause of action for declaratory judgment lacks  
4 merit because Plaintiffs cannot establish a "sudden" and "accidental" entire  
5 collapse; cannot establish a breach of any payment provision within the  
6 Policy; breached their duty of cooperation under the Policy; failed to satisfy  
7 the Policy tests for claiming covered benefits; the declaratory relief claims  
8 fail because Plaintiffs "cannot establish the absence of a legal remedy to be  
9 able to assert an equitable claim for declaratory relief; and Plaintiffs cannot  
10 establish "ongoing conduct to support a claim for declaratory relief because  
11 the claim has been denied"; and

12 (g) Issue No. 7: Plaintiffs claim for punitive damages lacks merit because  
13 Plaintiffs cannot establish by clear and convincing evidence that "Allstate  
14 acted maliciously, fraudulently, or oppressively or present evidence of  
15 ratification by a 'managing agent.'" 16

17 (Deft.'s *Amended* Motion at 3-4.)

18  
19 **Plaintiffs' Opposition**

20  
21 Plaintiffs respond first by noting that Allstate filed an initial motion for summary  
22 judgment on January 3, 2025 (dkt. no. 106) that raised four issues for complete summary  
23 judgment and, in the alternative, six issues for partial summary judgment; and then filed the  
24 *Amended* Motion on January 16, 2025 (dkt. no 113) that raises five "issues for complete  
25 summary judgement and added "a new 'Issue' for partial summary judgment." (Pltfs.' Opp'n  
26 at 1.) Thus, according to Plaintiffs, Allstate's *Amended* Motion presents twelve separate  
27 motions. (*Id.*) Plaintiffs further contend that the *Amended* Motion "lacks any new or amended  
28 memorandum of point and authorities" and does not "specifically reference any corresponding

1 discussion in the [Memorandum] Allstate filed with its January 3, 2025 filing. (*Id.*) Based on  
2 that, Plaintiffs initially oppose Allstate’s motion on the grounds that Allstate’s filings are a  
3 “disjointed, confusing, unclear mess,” and all of Allstate’s motions should be denied on that  
4 basis alone. (*Id.*)  
5

6 Plaintiffs object that Allstate cannot rely on its counsel’s opinions or those of its claims  
7 personnel “because their opinions are irrelevant and play no role in analyzing the meaning of  
8 the Policy.” (Pltfs’ Opp’n at 2 (citing *National Auto Casualty Ins. Co. v. Stewart*, 223 Cal.  
9 App. 3d 452, 458-59 (1990)).) Plaintiffs urge the Court to “ignore counsel’s proffered  
10 interpretations of the Policy and those of its claims personnel and coverage counsel . . . and to  
11 strike the affidavits of Pat Axtell and Thomas Byron[.]” (*Id.*)  
12

13 Plaintiffs further assert that because Allstate “did not retain a licensed professional  
14 engineer or construction contractor to inspect the damage and offer expert testimony,”  
15 Plaintiffs’ evidence in the Declaration of Reg K. Browne is unchallenged. (*Id.* at 4.) Further,  
16 Plaintiffs insist the determination by their engineer and contractor that steel beams at the  
17 Property had “failed” is synonymous with “collapsed.” (*Id.*) In sum, Plaintiffs contend that  
18 Allstate’s reliance on coverage counsel’s opinion as to the engineering and construction related  
19 facts at issue, topics on which Plaintiffs argue Allstate’s counsel “was not qualified to opine,”  
20 is itself sufficient evidence that Allstate acted in bad faith. (*Id.* at 5 (citing *Guebara v. Allstate*  
21 *Ins. Co.*, 237 F.3d 987, 995 (9th Cir. 2001).)<sup>8</sup>  
22

23 Plaintiffs respond to each of the issues raised in Allstate’s Motion, largely repeating the  
24 arguments made in Plaintiffs’ own Motion. On Issues Nos. 1 and 2, concerning Plaintiffs’  
25 failure to establish a “sudden” and “accidental” loss or “sudden and accidental” collapse within  
26

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27 <sup>8</sup> Plaintiffs expressly withdrew “all claims for bad faith, or unfair or deceptive acts, for practices constituting unfair claims  
28 settlement practices and common law bad faith that are or would be based on Allstate’s conduct prior to the issuance of the  
May 29, 2024 Coverage Denial Letter.” (Opp’n at 24, Dkt. No. 119.)

1 the meaning of the Policy’s coverage terms, Plaintiffs insist that Allstate has mischaracterized  
2 Plaintiffs’ claim. (*Id.* at 6.) Plaintiffs emphasize that their claim “is that part of their home (a  
3 steel beam and a wooden ‘nailer’) collapsed due to ‘hidden decay,” which Plaintiffs insist  
4 includes rust. (*Id.*) But, Plaintiffs also insist their “claim is not for rust/corrosion, it is a claim  
5 for a *complete collapse* of a part of the structure.” (*Id.* at 6 (emphasis added).) Here, too,  
6 Plaintiffs rely heavily on their expert Reg K. Browne’s opinion that “the actual collapse  
7 probably occurred within a month or two of October 2021 when Dr. Stock contacted Harwell  
8 Brothers and Mark Harwell called me to assess the situation which I did in December 2021. .  
9 .[.]” (*Id.* at 7.)

10  
11 Plaintiffs argue that Allstate “mischaracterizes its own Policy” because the Policy  
12 neither defines “sudden and accidental,” nor requires that *the cause* of a loss be “sudden and  
13 accidental.” (*Id.* at 9 (emphasis in original).) Here, Plaintiffs reiterate the contention made in  
14 their own motion for summary judgment, that the Policy did not require a “sudden and  
15 accidental” loss to property, but the Stocks “loss of use” and “physical loss of the protection of  
16 their home” was a loss sufficient to trigger coverage under the Policy. (*Id.* at 9-10.)

17  
18 Plaintiffs also contend that the rust from the steel beam that fell to the ground at the  
19 Property was enough of the steel to establish “that the beam failed, i.e., collapsed in engineering  
20 terms” and this, according to Plaintiffs, “is precisely what the Policy covers.” (*Id.* at 10.)  
21 Plaintiffs argue that the Policy does not make “sudden and accidental” a condition precedent  
22 to coverage. (*Id.*) Alternatively, Plaintiffs posit, in a rather convoluted fashion, that “even if  
23 the exclusion for corrosion does apply, it would preclude coverage only for the cost of the  
24 corroded steel beam and not for a collapse of a part of the structure which is expressly brought  
25 back into coverage by virtue of the exception.” (*Id.* at 10-11.)

1           **Allstate’s Reply**

2  
3           Allstate responds to Plaintiffs’ arguments by emphasizing that the Stocks’ opposition .  
4 . . ignores the plain language of the policy and controlling California and Ninth Circuit  
5 authorities.” (Deft.’s Reply at 1.) Additionally, Allstate objects that Plaintiffs rely on improper  
6 evidence in the form of “testimony of an undisclosed witness; and declarations that contradict  
7 prior sworn testimony.” (*Id.*) This evidence, Allstate maintains, cannot be used to “create a  
8 triable issue of fact.” (*Id.* at 2.)  
9

10           Allstate reemphasizes that Allstate is entitled to full summary judgment because: (1)  
11 the Stocks produced no evidence of a sudden and accidental loss and Plaintiffs’ own expert’s  
12 testimony confirms that steel I-beams never “instantaneously” collapse; (2) Plaintiffs’ assertion  
13 of coverage based on loss of use of the home is inconsistent with the Policy and California law;  
14 (3) Plaintiffs present no evidence of a “covered ‘collapse’” under the proper definition of that  
15 term”; (4) the Stocks breached their cooperation duties under the Policy; (4) the Stocks did not  
16 comply with the Policy payment conditions; (5) Plaintiffs’ declaratory relief claim fails because  
17 there is an adequate legal remedy and “the alleged wrong involves a past event”; and (6)  
18 Plaintiffs’ punitive damages claim fails because “the Stocks offer no evidence of malice,  
19 oppression, fraud or ratification by a managing agent” to support this claim. (*Id.* at 2.)  
20

21                           **DISCUSSION**

22  
23           As an initial matter, the Court notes that Defendant’s evidence and argument in support  
24 of its affirmative Motion mirrors, in large part, the arguments and evidence that Defendant  
25 offered in opposing Plaintiffs’ Motion. The disputed issues are also largely, but not entirely,  
26 identical. The Court addresses the issues articulated in the Defendant’s *Amended* Motion as  
27 presenting multiple, related issues. The Court declines to adopt Plaintiffs’ characterization that  
28 Defendant’s filing should be treated as twelve separate motions.

1           **A. Breach of Contract**

2  
3           Despite Plaintiffs’ effort to create disputed issues of fact by arguing there are a dozen  
4 separate motions for the Court to resolve, Plaintiffs fail to present evidence sufficient to raise  
5 a triable issue of fact to defeat Defendant’s cross-motion for summary judgment. The  
6 undisputed evidence, for the reasons outlined above in the Court’s discussion of Plaintiffs’  
7 Motion, demonstrates that the Property did not suffer a covered loss within the plain language  
8 of the Policy. Moreover, the Court concludes that the Policy’s coverage provisions that require  
9 an “entire collapse,” as well as the exceptions for incidents caused by “rust or corrosion,” are  
10 unambiguous.

11  
12           **1. No Evidence of “Entire Collapse” Or “Sudden and Accidental” Occurrence**  
13           **Within the Policy’s Coverage Provisions**

14  
15           Although Plaintiffs in their own Motion rely heavily on their own expert Reg K.  
16 Browne’s opinions that the damage resulting from the failing cap-beam at the Property satisfied  
17 the Policy’s definition of “collapse,” in opposing Defendant’s Motion, Plaintiffs argue that the  
18 Court should strike affidavits provided by Pat Axtell, claims personnel, and Thomas Byron,  
19 coverage counsel in support of Defendant’s Motion. (Pltfs’ Opp’n at 2.) The Court declines  
20 to do so but gives little weight to these affidavits to the extent they purport to opine as a matter  
21 of law regarding the meaning of Policy coverage terms.

22  
23           Plaintiffs also argue that Defendant’s understanding of the Policy provisions “means  
24 something quite different from what its insured could reasonably have expected the Policy to  
25 mean and indeed quite different from what the Policy actually states.” (*Id.* at 3.) This argument  
26 too is unavailing. As detailed in the Court’s analysis and discussion of Plaintiffs’ Motion  
27 above, the plain language of the Policy controls and the Court found no ambiguity in the Policy  
28 terms. Therefore, the Court need not, and does not, look to any other source to ascertain the

1 meaning of the Policy terms either as to “**entire** collapse” or the requirement that for coverage  
2 to apply to “**hidden decay**” under the Additional Coverage section of the policy, any such  
3 hidden decay must cause a “**sudden and accidental** direct physical loss.” There is no evidence  
4 before the Court to demonstrate that either of these conditions precedent to coverage occurred  
5 at the Property. Indeed, Plaintiffs’ own engineering expert, Reg K. Browne, opined that the  
6 Stocks’ residence “was in danger of collapsing” because the steel beam “was no longer able to  
7 perform its intended function.” (Dkt. No. 119-1; Browne Decl. ¶¶ 12-14.) Browne opined that  
8 “the wooden nailer attached to the beam also collapsed because it was crushed and ended up in  
9 failure,” which, according to Browne, meant that “the entire Stock House was in danger of  
10 collapsing[.]” (*Id.* at ¶ 14.) Browne goes on to state that “the entire house was in the process  
11 of collapsing” and the conditions he observed posed “impending serious risk of a total  
12 collapse[.]” (*Id.* at ¶ 16.) At best, Browne’s observations establish a weakening of the steel  
13 beam. Nowhere does the record evidence establish an actual “*entire* collapse” of the structure  
14 or part of the structure as expressly required under the Policy.

15  
16 The parties also dispute whether long term rust and corrosion in the support beam was  
17 “hidden decay” or an unconcealed condition. (*See* Pltfs’ Response to Def’t.’s SUF, No. 13, Dkt.  
18 No. 119-6 at 14-20.) But this dispute is immaterial because the Policy nevertheless required  
19 that even “hidden decay” must cause an “entire collapse” of the structure or part of the structure,  
20 and there is simply no evidence of any such collapse occurring as required to trigger coverage  
21 under the Policy.

## 22 23 **2. Interplay Between Exclusions under Coverage A and B and the Exceptions** 24 **Under Additional Coverage**

25  
26 Plaintiffs, relying on *Glaviano v. Allstate Ins. Co.*, 35 Fed. Appx 493 (9th Cir. 2002),  
27 seek to avoid the clear absence of evidence of “an entire collapse” or a “sudden and accidental”  
28 event as required under the Policy, by arguing that the occurrence of “corrosion” in the steel

1 beam was sufficient to trigger coverage under the Policy. Plaintiffs insist that the “corrosion”  
2 in this case is analogous to “dryrot” that was the focus of the analysis in *Glaviano*. (Reply at  
3 11.) Not so. *Glaviano* offers no basis in law or fact to defeat Defendant’s motion for complete  
4 summary judgment on the contract claim. (Pltfs’ Opp’n at 11.)  
5

6 In *Glaviano*, the district court granted summary judgment for the insurer and the Circuit  
7 Court affirmed the district court’s conclusion that a “dry rot” provision excluded coverage for  
8 *Poria* fungus damage that was the subject of the policyholders’ claim, but concluded that the  
9 lower court erred by not determining “whether the ‘dry rot’ exclusion was limited by the  
10 policy’s exception to its ‘collapse’ exclusion.” *Id.* at 495. The appellate court found that the  
11 “‘dry rot’ exclusion and ‘collapse’ exception together create[d] an ambiguity that should be  
12 construed in favor to the insured to provide coverage.” *Id.* Thus, the Ninth Circuit remanded  
13 in part for the district court to determine if and how that policy’s general exclusion for “dry  
14 rot” interfaced with the policy’s exception to the “collapse” exclusion that afforded coverage  
15 for collapses caused by dry rot, “even if non-collapse damages caused by dry rot is excluded.”  
16 *Id.* at 496.  
17

18 Here, by contrast, Plaintiffs argue that the “collapse that resulted in Plaintiffs’ ‘sudden  
19 and direct physical loss’ of the use of their house operates by means of the Additional Protection  
20 coverage as an exception to the exclusion for collapse in Coverage A.” (Pltfs’ Opp’n at 11.)  
21 On this point, Plaintiffs are correct, but that is not dispositive. Covered losses under Coverages  
22 A and B expressly exclude “Collapse, *except* as specifically provided in Section 1- Additional  
23 Protection under item 12. “Collapse.”” (Deft.’s NOFE, Ex. 1, Policy at 6 (emphasis added),  
24 Dkt No. 106-4.) The Policy expressly states, “we do not cover loss consisting of or caused by  
25 any of the following: (d) rust or other corrosion, mold, wet or dry rot.” (*Id.*, Policy at 7.)  
26

27 The Additional Protection provisions in Section 12 concerning “Collapse,” states: “We  
28 will cover: a) the **entire** collapse of a covered building structure; b) the **entire** collapse of part



1 of a covered building structure; and c) direct physical loss **to** covered property caused by (a) or  
2 (b) above. For coverage to apply, the collapse of a building structure specified in (a) or (b)  
3 above must be a sudden and accidental direct physical loss.” (*Id.*, Policy at 25 (emphasis  
4 added).) Here, the undisputed evidence establishes that the damage to the Property resulting  
5 from the long-term corrosion to the steel cap-beam did not result in an “entire collapse” within  
6 the meaning of the Policy. As Allstate emphasizes, the Policy explicitly refers to “direct  
7 physical loss *to covered property*.” (Deft.’s Reply at 3 (emphasis added).)

8  
9 Allstate, citing settled analysis by the California Court of Appeal, underscores that “the  
10 Stocks’ assertion that they suffered a ‘loss of use’ of their home is irrelevant to their property  
11 claims under Section I, which requires a sudden and accidental ‘physical loss’ as distinguished  
12 from ‘property damage.’” (*Id.* (citing *Wong v. Stillwater Ins. Co.*, 92 Cal. App. 5th 1297 n.6  
13 (2023) (internal citation omitted).) Allstate emphasizes that the Policy excludes “Collapse”  
14 except as specifically outlined in the Additional Protection section under item 12, where the  
15 Additional Protection Section 12 “gives back limited ‘collapse’ coverage.” (Deft.’s Reply at  
16 3-4.)

17  
18 Moreover, the plain language of the Policy requires that the “collapse of a building  
19 structure must be sudden and accidental direct physical loss caused by one or more of the  
20 following . . . (b) hidden decay to the building structure.” The the undisputed evidence  
21 establishes that the damage to the steel beam was caused by rust and/or “corrosion” over time  
22 that was neither a “sudden” nor “accidental” occurrence and did not cause an entire collapse  
23 within the Policy provisions. Indeed, Lawrence Stock’s own deposition testimony confirms as  
24 much. When asked if he observed “any building materials that had become completely  
25 detached and had fallen off of the Property in October 2021, Lawrence Stock testified: “The  
26 rust from the steel . . . was falling to the beach.” (Stock Depo. 40:18-41:1; Deft.’s NOFE Ex.  
27 25 at 472-73.) Further, Stock confirmed that he personally did not know whether rust particles  
28 had been slowly falling off of the I-beams at the Property over time prior to October 2021.

1 (Stock Depo. 42:16-20; Deft.'s NOFE Ex. 25 at 475.) Lawrence Stock confirmed that between  
2 October 1, 2021, and December 31, 2021, he did not see "any other building materials that had  
3 become completely detached or completely fallen off of the property in any area." (Stock  
4 Depo. 54:5-10; Deft.'s NOFE Ex. 25 at 479.)  
5

6 Accordingly, the Court concludes that the record evidence raises no triable issue of fact  
7 as to whether the damage to the Stock residence was an incident within the Policy's coverage  
8 provisions. Therefore, Allstate is entitled to complete summary judgment on Plaintiffs' breach  
9 of contract claim. Because the Court finds that summary judgment is appropriate, the Court  
10 does not reach Allstate's argument that the rust and corrosion in the steel beam were not  
11 concealed and, thus, did not constitute "hidden decay."  
12

### 13 **3. Noncooperation With Allstate's Efforts to Investigate the Claim**

14

15 Based on its own reservation of rights and Plaintiffs' purported admissions, Allstate  
16 separately moves for summary judgment arguing that Plaintiffs breached their duty to  
17 cooperate with the insurer. (Deft.'s Motion at 12-13.) As outlined in the Policy, the insureds  
18 were required to cooperate with Allstate's requests for records and property inspections. (*Id.*  
19 at 12, citing Policy, Section 3 subsections (d)(f) at 15 (Dkt. No. 106-4, Ex. 1 at 26).) The Policy  
20 states:  
21

22 In the event of a loss to any property that may be covered by this policy, you  
23 must: . . . d) give us all accounting records, bills, invoices and other vouchers, or  
24 certified copies, which we may reasonably request to examine and permit us to  
25 make copies; . . . f) as often as we reasonably require: 1) show us the damaged  
26 property; . . .  
27  
28

1 (*Id.*) As Allstate points out, California courts have long recognized that policy conditions  
2 requiring the insured's cooperation and assistance are "material to the risk and of the utmost  
3 importance in a practical sense." (Deft.'s Motion at 12 (citing *Belz v. Clarendon America Ins.*,  
4 158 Cal. App. 4th 615, 626 (2007)).) That said, the insurer must also show that it was  
5 prejudiced by the insured's lack of cooperation. (*Id.* at 13.) Allstate argues that actual prejudice  
6 is established as a matter of law because "it is now impossible to determine whether Plaintiffs'  
7 loss was covered." (*Id.*)

8  
9 Allstate contends that it repeatedly requested to inspect the Property close to the time  
10 the claim was submitted and asked for documents and photographs relating to the claim,  
11 including reports from the Stocks' contractor, Harwell Brothers Construction, and their  
12 engineer, Pacific Engineering Group, at least five different times. (Deft.'s NOFE, Exs. 7, 8  
13 (Dkt. No. 106-11.) Allstate maintains that Plaintiffs failed to respond to those requests; did not  
14 provide their Alternative Living Expense ("ALE") lease agreements; "denied Allstate access  
15 to the property until the repairs were mostly completed;" and Lawrence Stock denied "that  
16 photos and expert documents existed." (*Id.*) Finally, Allstate argues Plaintiff did not present  
17 the ACV of their loss. (*Id.*) Allstate maintains that this lack of cooperation warrants summary  
18 judgment in Allstate's favor. (*Id.* at 15.)

19  
20 Plaintiffs maintain that Allstate waived any objections as to these procedural  
21 requirements, arguing, as an initial matter, that Allstate's Coverage Disclaimer Letter dated  
22 May 29, 2004, does not state "lack of cooperation" as a basis for the coverage denial. (Pltfs'  
23 Opp'n at 16.) Second, Plaintiffs counter Allstate's arguments that Plaintiffs failed to provide  
24 documents related to their claim by pointing to email correspondence from Allstate's counsel,  
25 dated May 7, 2024, stating "the Pacific Engineering file that you forwarded to me has provided  
26 me with all of the information that I need to draft my coverage opinion letter to Allstate." (Pltfs'  
27 Opp'n at 16, citing Ex. E.) Finally, Plaintiffs contend that even if Allstate's assertions of  
28

1 noncooperation were true, which Plaintiffs’ vigorously dispute, Allstate fails to demonstrate  
2 prejudice. (*Id.*)

3  
4 Plaintiffs point to their evidence that before Allstate denied the claim, Plaintiffs, through  
5 their counsel, provided numerous documents concerning the condition of the property,  
6 including “many photographs of the damaged part of the house, many documents showing  
7 amounts paid for repairs,” and the fact that Plaintiffs allowed Allstate to send an independent  
8 adjuster to view the Property on March 28, 2023. (*Id.* at 17-18.) Plaintiffs also contend that  
9 “[b]oth before and after the March 28, 2023 inspection, all the damage was plainly visible from  
10 the beach. [] Allstate could have inspected from there.” (*Id.* at 18 (citing Ardi Decl. ¶ 4.)  
11 Plaintiffs also argue that Allstate points to no language in the Policy that specifically requires  
12 Plaintiffs’ cooperation as a condition precedent to filing suit and does not tie its noncooperation  
13 argument to any discussion in Allstate’s Motion. (Plfts.’ Opp’n at 19.)  
14

15 The evidence the parties offer on both the adequacy of Plaintiffs’ cooperation and  
16 Allstate’s purported “waiver” of this defense plainly present disputed issues of fact that  
17 foreclose summary adjudication on the issue. But because the Court finds that Plaintiffs fail,  
18 as an initial matter, to establish a covered incident under the Policy, the disputes regarding  
19 Plaintiffs’ cooperation, or lack thereof, and any alleged waiver by Allstate are not sufficient to  
20 preclude summary judgment on the fundamental coverage issue at the center of this lawsuit.  
21

#### 22 **4. Plaintiffs’ Bad Faith Declaratory Relief, and Punitive Damages Claims**

23

24 Finally, Allstate alternatively requests partial summary judgment on Plaintiffs’ two bad  
25 faith claims, declaratory relief, and punitive damages claims. (Def’t.’s Motion at 15-21.) These  
26 claims all fail as a matter of law in light of the Court’s finding that Plaintiffs present no disputed  
27 issue of fact as to a covered occurrence within the plain meaning of the Policy.  
28

1 **CONCLUSION**

2

3 For the reasons outlined above, Allstate's Motion for Summary Judgment is GRANTED

4 in its entirety. Because the Court has granted Allstate's Motion in entirety, the Court need not

5 reach Allstate's alternative arguments for partial summary judgment.

6

7 A separate judgment will be entered accordingly.

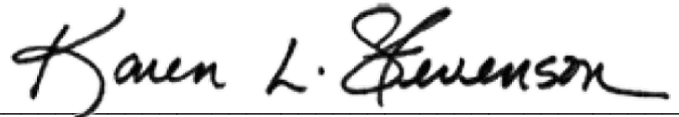
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9 IT IS SO ORDERED.

10

11 DATED: July 14, 2025

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KAREN L. STEVENSON

15 CHIEF UNITED STATES MAGISTRATE JUDGE

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