MUSICK, PEELER & GARRETT LLP
333 South Hope Street, Suite 2900
Los Angeles, California 90071-3048
Telephone (213) 629-7600
Facsimile (213) 624-1376

Steven J. Elie (State Bar No. 130566)
s.elie@musickpeeler.com
David A. Tartaglio (State Bar No. 117232)
d.tartaglio@musickpeeler.com
Jacquelene A. Robinson (State Bar No. 305628)
j.robinson@musickpeeler.com

Attorneys for Defendant STATE FARM GENERAL INSURANCE COMPANY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

PSY BURGER, LLC, a California limited liability company,

Plaintiff,

vs.

STATE FARM GENERAL INSURANCE COMPANY, an Illinois Corporation authorized to do business in California; and DOES 1 through 25, inclusive,

Defendants.

CASE NO. 2:25-cv-10901 SVW (MARx)
[Assigned for all purposes to: Hon. Stephen V. Wilson, Ctrm. 10A]

REPLY IN SUPPORT OF STATE FARM GENERAL INSURANCE COMPANY'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Date: March 16, 2026
Time: 1:30 p.m.
Crtrm.: 10A

[Filed and Served Concurrently with State Farm's Reply to Plaintiff's Response to State Farm's Statement of Undisputed Facts; State Farm's Response to Plaintiff's Evidentiary Objections; and State Farm's Objections to Plaintiff's Evidence]

TRIAL DATE: 05/12/2026

/ / /

/ / /

/ / /

/ / /

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiff PSY Burger, LLC's ("Plaintiff") Opposition to Defendant State Farm General Insurance Company's ("State Farm") Motion for Partial Summary Judgment is premised on a series of mischaracterizations and misapplications of the Policy language, the facts, and the law. Plaintiff attempts to create triable issues of fact by recasting State Farm's coverage analysis as a sinister plot involving "fabricated" exclusions and "made up duties." The undisputed record, however, demonstrates the opposite: State Farm conducted a thorough, multi-layered investigation, retained two independent, well-qualified experts, correctly applied controlling California law regarding causation, and based its denial on specific, existing policy language.

Plaintiff's case rests on a dispute as to whether its loss was predominantly caused by excluded perils – namely, chronic wear, tear and deterioration and faulty workmanship of the Property's roof. Instead, Plaintiff's Opposition selectively quotes from expert reports, misinterprets the Efficient Proximate Cause Doctrine, and asserts that any disagreement with its preferred outcome constitutes bad faith. Plaintiff may argue that the predominant cause of the loss was wind damage but has no basis to deny that the question the proximate cause of the loss presents a genuine issue.

For the reasons discussed herein, as well as in State Farm's Motion, each of Plaintiff's arguments fails as a matter of law. State Farm did not "ignore" collapse coverage; it correctly determined that the efficient proximate cause of Plaintiff's loss was excluded. State Farm did not "fabricate" exclusions for business interruption or equipment. Rather, it properly applied the Policy's general exclusions to those parts of Plaintiff's claim. State Farm did not "fabricate" a loss date or duties; it responded to the claim *as reported by Plaintiff* and reasonably analyzed the implications when Plaintiff itself changed its theory of when the loss occurred.

Ultimately, the evidence establishes, at a minimum, that a "genuine dispute" exists as to coverage. This is the archetypal case for which the genuine dispute

doctrine was designed: a causation question involving conflicting expert opinions and the application of established, yet nuanced, legal principles. Because State Farm's denial was rooted in a reasonable and thorough investigation and a tenable interpretation of its Policy, bad faith liability is precluded as a matter of law. Consequently, Plaintiff's derivative claim for punitive damages, which requires a showing of "despicable conduct," fails decisively. Therefore, this Court should grant partial summary judgment in State Farm's favor on Plaintiff's claims for bad faith and punitive damages.

II. PLAINTIFF HAS FAILED TO DEMONSTRATE THAT STATE FARM IS NOT ENTITLED TO PARTIAL SUMMARY JUDGMENT

Under *Federal Rule of Civil Procedure* 56(a), summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." A party opposing a properly supported motion for summary judgment may not rest on mere allegations or denials, but must "set forth specific facts showing that there is a genuine issue for trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986). A mere "scintilla of evidence" is insufficient; there must be evidence on which a jury could reasonably find for the non-moving party. *Id.* at 252.

A. Plaintiff Fails To Raise A Triable Issue Of Fact Regarding State Farm's Thorough, Fair And Reasonable Investigation Of Plaintiff's Claim That Considered *All Evidence*

Plaintiff's argument that State Farm "failed to conduct a fair and thorough investigation" of its claim is belied by the undisputed evidence and timeline of events. An insurer's duty is to conduct a "thorough, fair and objective" investigation. 10 Cal. Code Regs. § 2695.7(d). State Farm exceeded this standard for the reasons discussed.

1. State Farm Conducted Its Own Inspection Of The Property And Retained Multiple Experts To Investigate The Loss

After conducting its own inspection of the Property and the loss on August 29,

2023 (SUF 13), State Farm retained Seek Now, a licensed roofing company, to inspect the Property to determine the predominant cause of damage to the Property's roof that had allowed water to enter the Property's interior during Tropical Storm Hilary. (SUF 19-20; Declaration of Nelson Zetino ("Zetino Dec."), ¶¶ 1 & 6.) After Seek Now's Certified Inspector Nelson Zetino inspected the Property on October 3, 2023 and found no evidence of any wind damage or storm-created opening on the roof (SUF 22; *see also* Zetino Dec., ¶¶ 2 & 7-9), and instead "concluded it was more likely than not that the damage sustained by the roof at the Property which had allowed rainwater to enter during Tropical Storm Hilary *was caused by original improper installation, lack of maintenance and normal wear, tear and deterioration*" (Zetino Dec., ¶ 7, emphasis added), State Farm denied coverage for Plaintiff's claim. (SUF 23-25.)

After State Farm then received a contrary report from Plaintiff's expert, Top Roofing, in late November 2023, State Farm did not simply ignore it. (SUF 28-29.) State Farm escalated its investigation of Plaintiff's claim by retaining a more specialized engineering firm, SPC Geotechnical ("SPC"), specifically to address the causation issues raised in Top Roofing's report. (SUF 30-32.) It was based on the findings from SPC's investigation that State Farm reaffirmed its denial of coverage for Plaintiff's claim. (SUF 41-42.)

The totality of the circumstances of State Farm's investigation of Plaintiff's claim demonstrates diligence and a commitment to getting the analysis right, not a biased effort to deny the claim. This is the opposite of the "shallow" investigation condemned by the Court in *Shade Foods, Inc. v. State Farm Mut. Auto Ins. Co.*, 210 Cal.App.4th 1315 (2012). If anything, State Farm performed an extraordinarily thorough investigation.

2. <u>State Farm Owed No Duty To Interview Plaintiff's Expert</u>

Plaintiff's argument that State Farm allegedly "failed to conduct a fair and thorough investigation" of its claim rests solely on the assertion that State Farm did not interview Plaintiff's roofer, Top Roofing, as part of its investigation. Despite

Plaintiff's insistence to the contrary, no such duty exists. Under California law, an insurer is entitled to rely on its own experts and is not required to interview or depose the claimant's expert during its claim investigation. *See Hodjat v. State Farm Mut. Auto Ins. Co.*, 211 Cal.App.4th 1, 10-11 (2012) (reliance on a single expert can be reasonable); *see also Frommoethelydo v. Fire Ins. Exch.*, 42 Cal.3d 208, 281 (1986) (the failure to interview witnesses is not evidence of malice). Here, State Farm relied on its own investigation, as well as the investigation of two experts, exceeding the standard required for conducting a "thorough, fair and objective" investigation. 10 Cal. Code Regs. § 2695.7(d). Plaintiff presents no evidence that State Farm's experts were unqualified, biased, result-oriented or that State Farm had any reason not to rely on their reports.

3. Plaintiff Has Not Demonstrated That State Farm Did Not Consider All Factors In Its Investigation Of The Claim

State Farm did not ignore evidence of wind or alleged wind damage. Indeed, it tasked SPC with (1) answering whether the roof at the Property sustained weather-related damage, (2) confirming Top Roofing's opinion that wind caused sections of the parapet walls to peel back, thus allowing water to enter the interior of the structure, and (3) confirming that the damage to the roof and parapet wall was caused by wind, rather than some other factor. (SUF 32.) SPC's investigation concluded that, contrary to the findings of Plaintiff's expert Top Roofing, wind was a contributing factor *only* because it acted on *pre-existing defects* in the roof. Specifically, SPC concluded, based on its site observations, review of weather data, wind analysis, engineering evaluation, and professional experience and judgment, that the *predominant cause* of the roof damage at the Property was most likely improper original installation that occurred prior to Tropical Storm Hilary. (SUF 39.)

An insurer does not act in bad faith by weighing conflicting evidence and reaching a conclusion based on its expert's ultimate opinion on predominant causation.

B. At A Minimum, The Genuine Dispute Doctrine Precludes Plaintiff's Bad Faith Claim As A Matter Of Law

Even if this Court were to find that a triable issue exists on the breach of contract claim, partial summary judgment on Plaintiff's bad faith claim is warranted. The genuine dispute doctrine holds that "an insurer is not liable in bad faith when it denies a claim if the denial is based on a genuine dispute as to coverage, even if it is later determined the insurer was wrong." *Wilson v. 21st Century Ins. Co.*, 42 Cal.4th 713, 723 (2007). The doctrine applies where the insurer's position is "maintained in good faith and on reasonable grounds." *Id.* at 724. This case is a quintessential example of a genuine dispute:

- Factual Dispute: There is a dispute over causation, supported by conflicting expert opinions (Top Roofing vs. Seek Now/SPC). State Farm's reliance on its own qualified experts to conclude that excluded perils were the predominant cause is, by itself, sufficient to establish a genuine dispute. *Chateau Chamberay Homeowners Ass'n v. Associated Int'l Ins. Co.*, 90 Cal.App.4th 335, 348 (2001).
- Legal Dispute: This claim involves the complex application of the efficient proximate cause doctrine and the manifestation rule. State Farm's interpretation of these legal principles and their application to the facts was reasonable and supported by case law.

Plaintiff argues the doctrine does not apply because State Farm allegedly "ignored facts." However, as discussed above, that is simply not true. State Farm weighed and considered the evidence presented by Plaintiff and came to a reasonable conclusion which was simply different than the conclusion reached by Plaintiff and its expert. Plaintiff's mere disagreement with State Farm's conclusion does not negate the existence of a genuine dispute. *See Guebara v. Allstate Ins. Co.*, 237 F.3d 987, 994 (9th Cir. 2001). Given the multiple layers of expert analysis and the complex legal issues, State Farm's coverage position was, at the very least, reasonable. Bad

faith liability is therefore barred as a matter of law.

C. Plaintiff Fails To Demonstrate A Triable Issue Of Fact Regarding "Collapse" Because The Undisputed Evidence Shows The Efficient Proximate Cause Of Plaintiff's Loss Was Excluded Perils

Plaintiff's primary contention – that State Farm "ignored coverage for collapse" – fundamentally misconstrues both the Policy and California's controlling causation doctrine. State Farm did not ignore this provision; it analyzed the cause of the loss and correctly concluded that because the *efficient proximate cause* of the roof failure was excluded wear, tear, and deterioration and defective workmanship and maintenance, the collapse coverage was not triggered.

1. The Efficient Proximate Cause Doctrine Controls Coverage For "Collapse"

Under California law, when a loss results from a combination of a covered peril and an excluded peril, coverage is determined by the "efficient proximate cause." *State Farm Fire & Cas. Co. v. Von Der Lieth*, 54 Cal.3d 1123, 1131 (1992). The efficient proximate cause is the "predominating" or "most important" cause of the loss. *Ibid.*; *see also* CACI 2306. If the efficient proximate cause is a covered peril, the loss is covered. If it is an excluded peril, the loss is not covered, even if other covered perils contributed to the loss. *See* CAL. INS. CODE § 530.

Plaintiff cites the Policy's collapse provision, which provides coverage for collapse caused by a "specified cause of loss," such as "weight of rain that collects on a roof."[1] However, this provision cannot be read in a vacuum. The controlling case of *Vardanyan v. AMCO Ins. Co.*, 201 Cal.App.4th 896, 907-908 (2015), held that even where a collapse provision purports to limit coverage to losses caused "only by" specified perils, the efficient proximate cause doctrine still governs the analysis.

[1] Critically, Plaintiff never argued that coverage should be extended under the Policy's "collapse" provision during the claim handling.

Therefore, the critical inquiry is not whether the weight of rain (a specified cause of loss) contributed to the collapse, but whether it was the *predominant cause*.

2. Excluded Wear, Tear And Deterioration And Faulty Workmanship Were The Efficient Proximate Cause Of The Roof Failure At The Property

The undisputed evidence submitted by State Farm's investigating experts establishes that the predominant cause of the roof's failure was excluded conditions. Indeed, State Farm's thorough, fair and reasonable investigation revealed a roof suffering from pre-existing defects at the time of the loss:

- The inspection by Seek Now's Nelson Zetino found no evidence of a storm-created opening or wind damage (SUF 22), but instead concluded it was more likely that the damage sustained by the roof at the Property "was caused by original improper installation, lack of maintenance and normal wear, tear and deterioration" (Zetino Dec., ¶ 7); and
- SPC, an engineering firm retained by State Farm after Plaintiff submitted its expert report from Top Roofing, provided a detailed causation analysis of the loss. Specifically, SPC concluded "the condition of the poorly draining roof over the dressing room was most likely caused by minor sagging (wear and tear) of the roof over time, *a condition inconsistent with wind damage*." (Declaration of Kevin D. Cox, ¶ 13, emphasis added.) SPC further opined that "the damage to the vertical roofing along the parapet wall on the roof at the Unit was *more likely than not* due to improper original installation" and that "issues with roof leaks were more likely than not related to poor roof draining and standing water on the flat portion of the roof, and not likely due to leaks at the parapet." *Ibid*., emphasis added; *see also* SUF 39-40.

Plaintiff attempts to spin SPC's report as a concession of coverage by focusing on the mention of "wind events." The full context of the report makes clear that wind

was merely an environmental factor acting upon a flawed and deteriorated roofing system. Indeed, the "inadequately adhered roofing" is an example of faulty workmanship or defective maintenance, both of which are explicitly excluded under the Policy, while the "poor roof drainage" speaks to long-term maintenance issues and deterioration, also excluded (SUF 3; Policy at § I-EXCLUSIONS, ¶¶ 2.l.(1), 3.c.).

The weight of the rain that collected on the roof at the time of Tropical Storm Hilary only became a factor *because* of these pre-existing, excluded defects. The roof was already compromised. Therefore, the efficient proximate cause of the "collapse" was not the rain itself, but the chronic, excluded conditions of the roof that allowed the rain to accumulate and compromise the structure. State Farm's analysis was not an "ignorance" of coverage but a correct application of the efficient proximate cause doctrine, which bars coverage for Plaintiff's claim.

D. Plaintiff's Claim That State Farm "Fabricated" Exclusions To Deny Business Interruption And Equipment Coverage Is Meritless

Plaintiff accuses State Farm of "fabricating" exclusionary language to defeat its business interruption and equipment damage claims. This inflammatory charge is baseless. State Farm did not invent language; it applied the Policy's scope of coverage, wherein foundational exclusions for property damage apply to all consequential losses flowing therefrom.

1. Business Interruption Coverage Requires An Underlying Covered Cause Of Loss

The Policy's Loss of Income Endorsement is unambiguous: "We will pay for the actual 'Loss of Income' you sustain due to the necessary 'suspension' of your 'operations' … *The loss must be caused by a Covered Cause of Loss*." (SUF 4, emphasis added.)

As established above, the efficient proximate cause of the property damage that led to the suspension of Plaintiff's business operations was excluded wear, tear and deterioration and faulty workmanship. Because there was no underlying "Covered

Cause of Loss" to the Property, the condition precedent for business interruption coverage was not met. This is not a "fabricated" exclusion; it is the plain language of the endorsement applied to the facts of Plaintiff's loss. The cause of the property damage dictates the availability of all time-element coverages that depend on it.

2. The Policy's General Exclusions Defeat The Equipment Breakdown Extension

Plaintiff's argument regarding equipment coverage is similarly flawed. Plaintiff argues that because the Equipment Breakdown extension provides coverage for an "accident," and defines "accident" to include "mechanical breakdown" or "artificially generated electric current," coverage is automatic, irrespective of the cause. However, this ignores the fundamental principle that an endorsement or extension of coverage does not override the policy's general exclusions unless it explicitly says so. The Equipment Breakdown extension is "[s]ubject to the terms and conditions applicable to SECTION I of this coverage form." (SUF 3.) This includes the Section I Exclusions, particularly those concerning wear, tear and deterioration and faulty workmanship.

The damage to Plaintiff's equipment was a direct consequence of water intrusion from the failed roof. The chain of causation begins with an excluded peril. The definition of "accident" in the equipment breakdown context does not create coverage for damage that is the downstream result of an excluded event. As the California Supreme Court has noted in analogous contexts, specific definitions within endorsements do not erase broad, general exclusions that govern the underlying nature of the loss. *See Von Der Lieth*, 54 Cal.3d at 1131.

State Farm did not "fabricate" an exclusion. Rather, it correctly determined that because the entire loss originated from an excluded cause, coverage could not be created for one component of the damage via a narrow definitional clause in an extension of coverage afforded by the Policy. That was the basis for State Farm's coverage position, not any phantom exclusion.

E. State Farm Reasonably Analyzed The Claim Based On The Reported Date Of Loss And Did Not "Fabricate" Policy Duties

Plaintiff's accusation that State Farm "fabricated the loss date" and "impos[ed] duties upon Psy Burger that simply did not exist" is a transparent attempt to evade its own contractual obligations and improperly shift blame for the complexities of its own evolving claim onto State Farm.

1. State Farm's Investigation Properly Focused On The Loss As Reported By Plaintiff

Plaintiff reported the loss to State Farm on August 21, 2023, attributing it to Tropical Storm Hilary. (SUF 7.) State Farm's initial investigation reasonably focused on that event and date. An insurer only has a duty to investigate the claim as presented by its insured. *See Egan v. Mutual of Omaha Ins. Co.*, 24 Cal.3d 809, 819 (1979). Accordingly, State Farm's initial denial of the claim on October 19, 2023, was based on its finding that Tropical Storm Hilary on that date did not create an opening in the roof, and that the damage stemmed from pre-existing, excluded conditions. (SUF 25.) This was a direct, reasonable response to the claim as reported by Plaintiff.

2. Plaintiff's Subsequent Change In Theory Regarding The Date Of Loss Necessarily Implicated Its Own Policy Duties

Months after the loss was initially reported to State Farm, Plaintiff's own public adjuster proposed a new theory that the wind damage to the roof at the Property actually occurred in February 2023. (SUF 50.) This was a shift in the factual basis of the claim. In response, State Farm did not "fabricate" duties owed by Plaintiff. Rather, it reasonably pointed out that this new theory posited by Plaintiff implicated additional existing policy conditions, namely the insured's duties to provide prompt notice of a loss and to mitigate damages. (SUF 52.)

Moreover, if, as Plaintiff now suggests, the roof was damaged by wind at least six months before Tropical Storm Hilary in February 2023, but the water intrusion did not manifest until August 2023, a genuine question arises as to when the loss

became "appreciable" and whether notice was prompt. *See Abari v. State Farm Fire & Cas. Co.*, 205 Cal.App.3d 530, 535 (1988).

State Farm's June 10, 2024 letter did not impose "made up duties" on Plaintiff as the insured. Rather, it was a standard reservation of rights letter, advising the insured of potential coverage issues raised by *the insured's own new factual allegations and theories regarding the loss*. To suggest this is bad faith is to argue that an insurer must ignore policy conditions whenever an insured changes its story regarding the facts of loss. Indeed, the existence of a legitimate dispute over the timing of a loss and the insured's compliance with policy conditions is, by itself, grounds for invoking the genuine dispute doctrine. *See* CACI 2331.

F. Plaintiff Cannot Meet The High Evidentiary Burden For Punitive Damages

A claim for punitive damages requires a plaintiff to prove by "clear and convincing evidence" that the defendant was guilty of "oppression, fraud, or malice." CAL. CIV. CODE § 3294(a). This requires showing "despicable conduct" carried on with a "willful and conscious disregard" of the plaintiff's rights. *Neal v. Farmers Ins. Exch.*, 21 Cal.3d 910, 922 (1978). Here, Plaintiff has presented no evidence that remotely approaches this high bar.

1. There Is No "Clear and Convincing" Evidence Of Malice, Oppression, Or Fraud On The Part Of State Farm

A reasonable coverage decision, even if ultimately found to be erroneous, can never constitute the "despicable" conduct necessary for punitive damages. *Chateau Chamberay*, 90 Cal.App.4th at 355. Here, the totality of State Farm's conduct, which included three inspections and the retention of two experts, communication of the reasoning behind its coverage decision in detailed letters, and re-evaluation of Plaintiff's claim upon receiving new information, all demonstrates a standard, professional claims process, not a "conscious disregard" of rights.

/ / /

The California Supreme Court has affirmed that this high standard is not easily met. A simple denial, without more, is insufficient. *See Casu Sempra v. Cal. Capital Ins. Co.*, 54 Cal.App.5th 971, 997 (2020) (reviewing the stringent requirements of Section 3294). Plaintiff's allegations of "fabricated" language are rhetorical flourishes, not evidence of the "base," "vile," or "contemptible" behavior required by law. *See* CACI 3947. As there is no evidence of bad faith for the reasons discussed above and in State Farm's Motion, it follows that there is no basis for punitive damages as a matter of law.

2. Plaintiff Has Failed Introduce Any Admissible Evidence Of Ratification By A Managing Agent

To hold a corporation liable for punitive damages, the wrongful act must have been committed or ratified by an "officer, director, or managing agent." CAL. CIV. CODE § 3294(b). Here, Plaintiff merely alleges that various managers were "involved" in the claim. However, managerial oversight of a reasonable claims decision does not constitute ratification of oppression, fraud, or malice. For ratification to occur, the managing agent *must* have approved conduct *they knew to be wrongful*. The record here only shows managers approving a claim denial they reasonably believed to be correct based on expert advice and the Policy's language. This is not ratification of tortious conduct; it is the proper functioning of claim handling, investigation, analysis and adjustment. Plaintiff has produced no admissible evidence that any manager knowingly approved an act of malice, oppression, or fraud. *See* State Farm's Objections to Plaintiff's Evidence Nos. 1-33.

III. CONCLUSION

For the foregoing reasons, State Farm respectfully requests that this Court grant its Motion for Partial Summary Judgment as to Plaintiff's Second Cause of Action for

/ / /

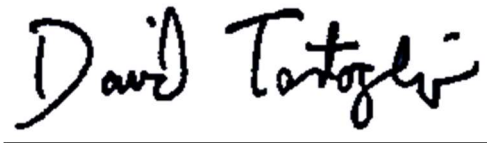
/ / /

/ / /

Breach of the Implied Covenant of Good Faith and Fair Dealing and its claim for punitive damages.

DATED: March 2, 2026

MUSICK, PEELER & GARRETT LLP

By: 

Steven J. Elie
David A. Tartaglio
Jacquelene A. Robinson
Attorneys for Defendant STATE FARM GENERAL INSURANCE COMPANY