

ARBITRATION DEMAND LETTER

Document Category: Escalation & Legal Positioning

Document Number: 11 of 33

Priority Level: FORMAL LEGAL PROCEEDING

CLAIMANT INFORMATION

David Chen

9821 Willowbrook Lane

San Francisco, CA 94118

(415) 555-7234

dchen.legal@email.com

April 5, 2024

SERVICE INFORMATION

SENT VIA: Certified Mail Return Receipt Requested #7019 2280 0000 1957 3842, Email, Process Server

PRIMARY SERVICE:

Nationwide Mutual Insurance Company

Legal Department / Arbitration Unit

One Nationwide Plaza

Columbus, OH 43215

ARBITRATION FORUM:

American Arbitration Association

California Regional Office

555 West Fifth Street, 30th Floor

Los Angeles, CA 90013

Case Manager: To Be Assigned

ADDITIONAL SERVICE:

California Department of Insurance

Consumer Services Division

300 South Spring Street

Los Angeles, CA 90013

CAPTION

Re: FORMAL DEMAND FOR BINDING ARBITRATION

Insurance Policy Number: CAL-HO5-2019-84725

Claim Number: NW-2024-CAL-00847

Date of Loss: January 12, 2024

Amount in Dispute: \$387,450.00

Arbitration Provision: Policy Section VII.E, Page 47

Governing Rules: AAA Commercial Arbitration Rules

FORMAL ARBITRATION DEMAND

Dear Sir/Madam:

Pursuant to the mandatory arbitration provision contained in insurance policy number CAL-HO5-2019-84725, Claimant hereby demands binding arbitration of all disputes arising from Respondent's handling, adjustment, and payment of the insurance claim for damages occurring on January 12, 2024.

SECTION 1: ARBITRATION PROVISION

POLICY ARBITRATION CLAUSE

Policy Section VII.E, Page 47 expressly states:

"Any dispute arising out of or relating to this insurance contract, including disputes regarding coverage, claim handling, or the amount of loss, shall be resolved through binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted by a single arbitrator unless the amount in controversy exceeds \$250,000, in which case three arbitrators shall preside."

ARBITRATION PROVISION ANALYSIS

| Provision Element | Policy Requirement | Status | Compliance |
|----------------------|-------------------------------|------------------|------------|
| Mandatory/Optional | Mandatory | Invoked | ✓ |
| Scope of Disputes | All claim disputes | Applicable | ✓ |
| Arbitrator Selection | Three-panel (amount > \$250k) | Ready to proceed | ✓ |
| Rules Applicable | AAA Commercial | AAA Commercial | ✓ |
| Location | California | San Francisco | ✓ |
| Award Binding | Binding on all parties | Acknowledged | ✓ |

SECTION 2: PARTIES TO ARBITRATION

CLAIMANT(S)

Primary Claimant:

Full Legal Name: David Chen

Capacity: Insured/Policyholder

Address: 9821 Willowbrook Lane, San Francisco, CA 94118

Email: dchen.legal@email.com

Phone: (415) 555-7234

Additional Claimants:

Co-Insured: Linda Chen (Spouse)

Mortgagee: Bank of America, N.A. (Mortgage Interest)

RESPONDENT(S)

Primary Respondent:

Legal Entity Name: Nationwide Mutual Insurance Company

State of Incorporation: Ohio

Principal Place of Business: One Nationwide Plaza, Columbus, OH 43215

Registered Agent: CT Corporation System, 818 West Seventh Street, Los Angeles, CA 90017

Claims Department: Western Region Claims, 5800 North Course Dr., Westlake Village, CA 91362

SECTION 3: STATEMENT OF CLAIMS

COUNT I: BREACH OF INSURANCE CONTRACT

Factual Basis:

1. Valid policy in force: CAL-HO5-2019-84725
2. Premiums paid current: \$4,850 annually
3. Covered loss occurred: January 12, 2024 (fire damage)
4. Timely notice provided: January 12, 2024
5. Cooperation provided: Complete
6. Coverage wrongfully denied/underpaid by \$387,450

Specific Breaches:

| Contract Provision | Obligation | Breach | Damages |
|--------------------|-------------------------|------------------------|--------------------|
| Coverage grant | Pay covered losses | Denied smoke damage | \$145,000 |
| Payment timing | Pay within 30 days | 83 days late | Interest + damages |
| Full payment | Pay all covered amounts | Underpaid by \$387,450 | Full amount |
| Good faith | Fair investigation | Biased expert used | Bad faith damages |

Damages Sought: \$387,450 in unpaid benefits

COUNT II: BREACH OF IMPLIED COVENANT OF GOOD FAITH

Bad Faith Conduct:

| Date | Action/Inaction | Impact | Evidence |
|----------|--------------------------|-------------------------------|------------------|
| 01/15/24 | Delayed inspection | 10 days late | Email chain |
| 01/28/24 | Used biased expert | Undervalued by 60% | Expert report |
| 02/15/24 | Misrepresented coverage | Claimed smoke excluded | Policy pages |
| 02/28/24 | Lowball offer | \$125,000 vs \$512,450 needed | Written offer |
| 03/10/24 | Threatened claim closure | Coercion attempted | Recorded call |
| 03/25/24 | Pattern denial | Similar claims paid elsewhere | Discovery needed |

Damages Sought: \$500,000 in consequential and punitive damages

COUNT III: STATUTORY VIOLATIONS

California Insurance Code Violations:

| Statute | Requirement | Violation | Penalty |
|-----------------|----------------------------|---------------------|--------------------|
| \$790.03(h)(3) | Acknowledge within 15 days | 22 days late | Statutory penalty |
| \$790.03(h)(5) | Good faith settlement | Lowball offer | Interest + penalty |
| \$2071 | Pay undisputed amounts | Withheld \$85,000 | Treble damages |
| \$790.03(h)(13) | Fair settlement practices | Multiple violations | Punitive available |

SECTION 4: FACTUAL NARRATIVE

Loss Event

| Date/Time | Event | Impact | Documentation |
|----------------|----------------------|--------------------------------------|------------------|
| 01/12/24 14:30 | Kitchen fire | Total loss kitchen, smoke throughout | Fire dept report |
| 01/12/24 15:00 | Emergency mitigation | \$15,000 spent | ServePro invoice |

| Date/Time | Event | Impact | Documentation |
|----------------|---------------------|---------------------------------|----------------|
| 01/12/24 16:00 | Notice to carrier | Claim #NW-2024-CAL-00847 opened | Confirmation |
| 01/22/24 | Adjuster inspection | Acknowledged major damage | Initial report |

Claims Process Failures

| Date | Carrier Action/Inaction | Policyholder Response | Result |
|----------|--------------------------------------|----------------------------------------|-------------|
| 01/22/24 | Initial inspection - 45 minutes only | Requested reinspection | Denied |
| 02/05/24 | Estimate \$125,000 | Provided contractor estimate \$512,450 | Ignored |
| 02/20/24 | Denied smoke damage | Cited policy language | No response |
| 03/01/24 | Hired biased expert | Challenged credentials | Disregarded |
| 03/15/24 | Final offer \$125,000 | Demanded arbitration | Here we are |

SECTION 5: DAMAGES ANALYSIS

A. COMPENSATORY DAMAGES

| Category | Amount | Calculation Basis | Documentation |
|----------------------------|-----------|--------------------------|-----------------|
| Unpaid Policy Benefits | | | |
| Dwelling coverage | \$287,450 | RCV - Paid | Three estimates |
| Personal property | \$65,000 | Inventory valuation | Detailed list |
| Additional living expense | \$35,000 | 6 months rental | Market rates |
| Subtotal Direct | \$387,450 | | |
| Consequential Damages | | | |
| Construction loan interest | \$18,500 | 8.5% on \$250k, 9 months | Loan docs |
| Lost rental income | \$27,000 | \$3,000/mo x 9 months | Lease agreement |
| Credit score damage | \$15,000 | Refinance rate impact | Credit reports |
| Subtotal Consequential | \$60,500 | | |

B. PUNITIVE DAMAGES

Basis for Punitive Award:

- Pattern of similar denials documented
- Conscious disregard of policy terms
- Financial motivation to deny claims
- Deterrence needed for industry practices

Amount Sought: \$1,000,000 or 3x compensatory damages

TOTAL DAMAGES IN CONTROVERSY: \$1,447,950

SECTION 6: ARBITRATOR SELECTION

Three-Arbitrator Panel (Amount over \$250,000)

Panel Composition:

- 1. Claimant selects one arbitrator
- 2. Respondent selects one arbitrator
- 3. Two arbitrators select neutral chair

Timeline:

- Selection within 30 days
- Chair selected within 15 days after

Required Qualifications:

- ☒ Licensed attorney (10+ years)
- ☒ Insurance law expertise
- ☒ Property damage experience
- ☒ California law knowledge
- ☒ AAA panel member
- ☒ No carrier conflicts

SECTION 7: PROPOSED PROCEDURES

Document Production - Respondent Must Produce:

| Document Category | Description | Deadline |
|-----------------------|---------------------------------|----------|
| Complete Claim File | Every document, note, email | 30 days |
| Underwriting File | Policy issuance documents | 30 days |
| Guidelines/Manuals | Claims handling procedures | 30 days |
| Prior Similar Claims | Fire/smoke claims 2020-2024 | 45 days |
| Reserve Information | All adjustments and rationale | 30 days |
| Expert Communications | All correspondence with experts | 30 days |

| Document Category | Description | Deadline |
|--------------------|----------------------------------|----------|
| Training Materials | Adjuster training on fire claims | 45 days |

Proposed Deposition Schedule:

| Deponent | Role | Duration | Location |
|---------------|------------------|----------|---------------|
| Janet Torres | Primary adjuster | 7 hours | San Francisco |
| Mark Stevens | Supervisor | 4 hours | San Francisco |
| Dr. James Liu | Carrier's expert | 4 hours | San Francisco |
| Corporate Rep | Policy holder | 7 hours | San Francisco |

SECTION 8: SETTLEMENT ATTEMPTS

Settlement History:

| Date | Offer/Demand | From | Response | Gap |
|----------|--------------|------------|----------|-----------|
| 02/28/24 | \$125,000 | Respondent | Rejected | \$387,450 |
| 03/05/24 | \$512,450 | Claimant | Ignored | \$387,450 |
| 03/20/24 | \$125,000 | Respondent | Rejected | \$387,450 |
| 03/25/24 | \$350,000 | Claimant | Rejected | \$225,000 |

SECTION 9: RELIEF SOUGHT

The Arbitrator(s) Are Requested To:

1. FIND AND DECLARE:
- Coverage exists for all fire and smoke damage
 - Respondent breached contract
 - Respondent acted in bad faith
 - Statutory violations occurred
2. AWARD COMPENSATORY DAMAGES:
- Unpaid policy benefits: \$387,450
 - Consequential damages: \$60,500
 - Interest from date of loss
3. AWARD PUNITIVE DAMAGES:
- \$1,000,000 for egregious conduct

4. **AWARD STATUTORY REMEDIES:**

- Penalties under California Insurance Code
- Attorney's fees and costs

CERTIFICATION AND VERIFICATION

I hereby certify that:

1. This demand is made in good faith
2. Claims are supported by evidence
3. Settlement efforts have been exhausted
4. Information provided is true and accurate

Claimant remains willing to engage in meaningful settlement discussions to avoid the time and expense of arbitration proceedings.

Respectfully submitted,

/s/ David Chen

David Chen

April 5, 2024

Verification: I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

EXHIBITS AND ATTACHMENTS

- ☒ Insurance Policy (complete)
- ☒ Claim Correspondence (chronological)
- ☒ Fire Department Report
- ☒ Three Contractor Estimates
- ☒ Expert Reports
- ☒ Photos and Videos (indexed)
- ☒ Settlement Attempts (all offers/demands)
- ☒ AAA Filing Fee: \$3,350
- ☒ AAA Filing Forms (completed)

ARBITRATION FILING FEE ENCLOSED: \$3,350

RESPONSE REQUIRED WITHIN 14 DAYS

