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Attorney for Plaintiff
RUIZ FOOD PRODUCTS, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUIZ FOOD PRODUCTS, INC., a California
Corporation

Plaintiff,

vs.

CATLIN UNDERWRITING U.S., INC.;
CERTAIN UNDERWRITERS AT LLOYD'S
LONDON SUBSCRIBING TO POLICY NO.
PCI937441010, and DOES 1-200, inclusive

Defendants

Case No.: 1:11-CV-00889-OWW-DLB

ORDER DENYING DEFENDANT
CERTAIN UNDERWRITERS AT
LLOYD'S MOTION TO DISMISS AND
GRANTING DEFENDANT CATLIN
UNDERWRITING AGENCY U.S.'S
MOTION TO DISMISS

Date: August 1, 2011
Time: 10:00 a.m.
Courtroom of Hon. Oliver W. Wanger

On August 1, 2011, the motion of Defendant Certain Underwriters at Lloyd's Subscribing to Policy No. PCI937441010 (hereinafter "Catlin Syndicate") for dismissal of the complaint filed by Plaintiff Ruiz Food Products, Inc. pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure came on for hearing. Also set for hearing on August 1, 2011 was the motion to dismiss of Defendant Catlin Underwriting Agency U.S., Inc. (Catlin Underwriting).

Appearing for Plaintiff Ruiz Food Products was Michael L. Renberg. Appearing for Defendant Catlin Syndicate was Ryan H. Opgenorth.

1 The court, having reviewed the moving papers, opposition papers and reply papers
2 submitted by the parties, and providing the parties an opportunity to be heard, and having issued
3 a memorandum decision, enters the follow order:

4 1. The motion of Defendant Catlin Syndicate to dismiss Plaintiff's complaint is
5 DENIED. Federal Rules of Civil Procedure allow a plaintiff to generally allege that all
6 conditions precedents have occurred or been performed. The complaint filed by Plaintiff
7 includes allegations in paragraph 22 and 26 that it has performed all obligations required to be
8 performed under the terms of the policy and that Defendant had refused to pay benefits owed
9 pursuant to the subject insurance policy. Such allegations meet the requirements of Rule
10 12(b)(6) that the complaint contain sufficient factual matters, accepted as true, to state a claim
11 for relief that is plausible on its face.

12 2. The motion of Defendant Catlin Underwriting to dismiss Plaintiff's complaint is
13 GRANTED, without prejudice. Plaintiff stipulated to the dismissal of Catlin Underwriting
14 without prejudice.

15 3. Defendant Catlin Syndicate is to file an answer to the complaint 14 days after
16 entry of this order.

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19 IT IS SO ORDERED.

20 Dated: August 5, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE