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13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

15 RUIZ FOOD PRODUCTS, INC., a California
16 Corporation

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

18 Plaintiff,

19 vs.

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

24 Defendants

25 ORDER DENYING DEFENDANT
26 CERTAIN UNDERWRITERS AT
27 LLOYD'S MOTION TO DISMISS AND
28 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

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

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

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

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

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

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

IT IS SO ORDERED.

Dated: August 5, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE