

1 Plaintiffs argue as follows concerning Defendant's Rule
2 12(c) motion:

3 The motion under Rule 12(c) of the Federal
4 Rules of Civil Procedure depends upon the
5 pleadings[,] and paragraphs 16, 17, and 18 of
6 the complaint plead an implied contract to
7 investigate claims fairly and in good faith
8 and further plead a breach of that implied
9 contract by [Defendant]. Read collectively
10 with paragraph 19, these paragraphs allege
11 that the breach of this promise proximately
12 resulted in damage to [Plaintiffs] . . . of a
nature that was not only contemplated
by the parties at the inception of the
agreement, but that was specifically
understood by the parties to be a likely
result of a breach by [Defendant] and
constituted substantial bargained for
consideration on the part of [Plaintiffs].
Those pleadings cannot be read to allow
[Defendant] judgment on them . . . under
California contract law.

13 (Mem. Opp'n MIL & Mot. Partial J. ("Opp'n") 11:17-12:2, ECF No.
14 29.)

15 Defendant's Rule 12(c) motion is "functionally identical to
16 [a motion under] Rule 12(b)(6) and . . . the same standard of
17 review applies to motions brought under either rule." Cafasso,
18 U.S. ex. rel. v. Generay Dynamics C4 Sys., 637 F.3d 1047, 1054
19 n.4 (9th Cir. 2011) (quotation omitted). "To survive [a motion
20 for judgment on the pleadings], a complaint must contain
21 sufficient factual matter, accepted as true, to state a claim to
22 relief that is plausible on its face." Caviness v. Horizon Cmty.
23 Learning Ctr., Inc., 590 F.3d 806, 812 (9th Cir. 2010).

24 Defendant does not challenge the plausibility of
25 Plaintiffs' factual allegations; rather it argues: "[b]ecause
26 this Court has already determined that Plaintiffs may only
27 proceed with their claim for breach of the implied covenant
28 sounding in contract, Plaintiffs are foreclosed from seeking any

1 damages over the limit of liability specified in the policy of
2 insurance," and therefore "Plaintiffs' allegations of extra-
3 contractual damages . . . are not recoverable." (Def. Mot. 6:7-9;
4 6:14-16.) However, Defendant has not shown that the Court's
5 referenced prior ruling addressed the contractual damages claim
6 Defendant asserts it now challenges.

7 Plaintiffs allege in their Complaint that they "entered
8 into a[] written insurance contract" with Defendant stating
9 Defendant "would indemnify [Plaintiffs] from any damage that they
10 may sustain by reason of fire to or theft of [their vehicle;]"
11 however, after their vehicle was stolen and destroyed in a fire,
12 Defendant "refused to indemnify [Plaintiffs on the grounds that]
13 . . . it [had] probable cause to believe [Plaintiffs] . . .
14 deliberately procured the removal of the [vehicle] from their
15 residence and . . . caused [the fire that destroyed it]." (Compl.
16 ¶¶ 4, 14-15.) Plaintiffs allege the following resulted from
17 Defendant's conduct:

18 [They] suffered damages contemplated by the
19 Policy, in that they were unable to replace
20 the [vehicle], they were accused of and
21 prosecuted for criminal activity, they were
22 subjected to arrest and detention, they lost
23 past and future income, and lost the
24 bargained for peace and security of knowledge
that their financial losses covered by the
Policy would be indemnified by [Defendant],
all to their damages in the sum of nine
million, nine hundred fifty thousand dollars
(\$9,950,000.00,) or according to proof.

25 (Compl. ¶¶ 18-19) (emphasis added.)

26 The core of Defendant's Rule 12(c) motion concerns
27 whether Plaintiffs can seek what Defendant characterizes as
28 "extra-contractual damages." California Civil Code section 3300,

1 the statute under which Plaintiffs' damages claim is analyzed,
2 states:

3 [f]or the breach of an obligation arising
4 from contract, the measure of damages, except
5 where otherwise expressly provided by this
6 code, is the amount which will compensate the
party for all the detriment proximately
caused thereby, or which, in the ordinary
course of things, would be likely the result
therefrom.

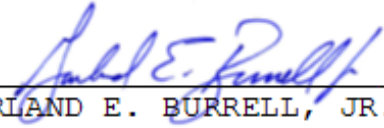
7 Further, the California Supreme Court states in Weaver
8 v. Bank of Am. Nat'l Trust & Sav. Ass'n, 59 Cal. 2d 428, 434
9 (1963), that in contract actions "[w]hile the causal extent of
10 damages may be more limited than in tort, nevertheless, damages
11 actually contemplated, or within the reasonable contemplation of
12 the parties, are recoverable."

13 In light of this authority, Defendant has not shown it
14 prevails on its Rule 12(c).

15 Plaintiffs also oppose Defendant's alternative motion
16 to exclude from trial any evidence related to Plaintiff's claim
17 for extra-contractual damages, arguing the motion seeks an unripe
18 in limine ruling that would prevent evidence from being used at
19 trial. (Opp'n 4:5-9.) Defendant's alternative motion is not
20 concrete enough for a judicial ruling, and is therefore denied.

21 For the stated reasons, Defendant's Rule 12(c) motion
22 and its alternative motion are DENIED.

23 Dated: July 9, 2015

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GARIAND E. BURRELL, JR.
27 Senior United States District Judge
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