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16 **UNITED STATES DISTRICT COURT**  
17 **EASTERN DISTRICT OF CALIFORNIA**

18 JANICE SCHMIDT, on behalf of  
19 herself and all others similarly situated.

20 Plaintiff,

21 v.

22 STANDARD LIFE INSURANCE  
23 COMPANY, PROTECTIVE LIFE  
24 INSURANCE COMPANY, and DOES  
25 1 TO 50, inclusive,

26 Defendants.

No. 1:21-cv-1111

**CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL**

1. BREACH OF CONTRACTUAL DUTY TO PAY A COVERED CLAIM
2. BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

1 JANICE SCHMIDT (“Mrs. Schmidt” or “Plaintiff”), brings this action  
2 on behalf of herself and all others similarly situated, against Defendants  
3 Standard Life Insurance Company (“Standard Life”) and Protective Life  
4 Insurance Company (“Protective Life”) (together, “Defendants”). Plaintiff, by  
5 and through her attorneys, based on her individual experiences, the  
6 investigation of counsel, and information and belief, alleges as follows in  
7 support of the claims herein.

8 **I. NATURE OF THE CASE**

9 1. Plaintiff has filed this class action lawsuit because Defendants  
10 knowingly and repeatedly violated California law by failing to provide  
11 statutorily mandated annual notices to life insurance policyholders as required  
12 by California law. Due to Defendants’ failure, the policies did not lapse and  
13 remained in force at the time of the insured’s death, and Defendants then  
14 breached their life insurance contracts by refusing to pay the death benefits to  
15 the beneficiaries.

16 2. Under Sections 10113.71 and 10113.72 of the California Insurance  
17 Code (“Statutes”), which became effective January 1, 2013, life insurance  
18 companies such as Defendants are required to, among other obligations, a) give  
19 their policyholders an opportunity to designate a third party to receive notice of  
20 a potential termination of benefits for non-payment of a premium (“Designation  
21 Notice Requirement”); and b) provide notice to a policyholder designee of any  
22 non-payment of a premium prior to terminating any policy (“Third Party Notice  
23 Requirement”).

24 3. The public policy undergirding these requirements—which were  
25 publicly supported by California’s Governor, Insurance Commissioner and  
26 Department of Insurance—is to provide consumer safeguards from which  
27 people who have purchased life insurance coverage, especially seniors, would  
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1 benefit, specifically, to protect consumers from losing insurance coverage due  
2 to an uninformed choice about their insurance options or a missed premium  
3 payment.

4 4. According to the author of the legislation: “Individuals can easily  
5 lose the critical protection of life insurance if a single premium is accidentally  
6 missed. If an insured individual loses coverage and wants it reinstated, he or  
7 she may have to undergo a new physical exam and be underwritten again,  
8 risking a significantly more expensive, possibly unaffordable premium if his or  
9 her health has changed in the years since purchasing the policy. Therefore, the  
10 protections provided by [the Requirements] are intended to make sure that  
11 policyholders have sufficient warning that their premium may lapse due to  
12 nonpayment.”

13 5. This is not a mere hypothetical concern. When one is elderly, ill,  
14 or in the final stages of life, it is not uncommon for a life insurance holder to  
15 miss a premium payment or make an uninformed decision as a result of their  
16 condition. The consumer protections of the Statutes were put in place to protect  
17 policyholders and their families.

18 6. Defendants have repeatedly and intentionally failed to adhere to  
19 the Designation Notice Requirements which means that the policies could not  
20 have and did not lapse, and Defendants have failed to honor those life insurance  
21 policies by refusing to pay beneficiaries the proceeds. Protective Life’s conduct  
22 has been particularly egregious as it has had notice that the California Supreme  
23 Court (in a case in which it was the named defendant), the Ninth Circuit Court  
24 of Appeals and numerous district courts in the Ninth Circuit have enforced the  
25 Designation Notice Requirements against life insurance companies in nearly  
26 identical circumstances.

1           7. The California Supreme Court has unequivocally held—in  
2 *McHugh v. Protective Life Ins. Co.*, 12 Cal. 5th 213, 220 (Aug. 30, 2021)—that  
3 the Statutes apply to all policies that were in force as of January 1, 2013:

4           “We conclude that sections 10113.71 and 10113.72 apply to all  
5 life insurance policies in force when these two sections went into  
6 effect, regardless of when the policies were originally issued.  
7 This interpretation fits the provisions’ language, legislative  
8 history, and uniform notice scheme, and it protects policy  
9 owners—including elderly, hospitalized, or incapacitated ones  
10 who may be particularly vulnerable to missing a premium  
11 payment—from losing coverage, consistent with the provisions’  
12 purpose.”

13           8. The *McHugh* decision followed multiple rulings from other courts,  
14 one dating as far back as 2016, which have likewise applied the Statutes to  
15 policies in force as of the Statutes’ effective date. *See Bentley v. United of*  
16 *Omaha Life Insurance Co.*, 371 F. Supp. 3d 727, 739-40 (C.D. Cal. 2019)  
17 (“Jennifer Bentley, as the class representative, has successfully demonstrated  
18 that United breached its contractual duty to pay life insurance benefits because:  
19 (1) United issued the life insurance policy to Eric Bentley, and Jennifer Bentley  
20 is that policy’s beneficiary, Jt. Stip. ¶ 15; (2) the Bentley policy was issued,  
21 delivered, or renewed in California by United, *id.* ¶¶ 16–17; (3) the Bentley  
22 policy renewed after the Effective Date, *id.* ¶¶ 17, 20; (4) United did not provide  
23 Eric Bentley with the Offer to Designate or provide Jennifer Bentley with the  
24 Designee/30-Day Notice required by the Statutes, *id.* ¶¶ 22–24; (5) the Bentley  
25 policy lapsed for non-payment of premium after the Effective Date, *id.* ¶¶ 4–5,  
26 35–36; and (6) to date, United has not paid death benefits on the Bentley policy.  
27 *Id.* ¶ 32. Thus, there is no dispute of material fact that United breached its  
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1 contractual duty to pay Jennifer Bentley’s life insurance claim.”); *accord*  
2 *Moriarty v. American General Life Ins. Co.*, 3:17-cv-1709, ECF No. 184 (S.D.  
3 Cal. Oct. 2, 2020); *Siino v. Foresters Life Ins. & Annuity Co.*, 2020 WL  
4 8410449, \*6-7 (N.D. Cal. Sep. 1, 2020); *Thomas v. State Farm Ins. Co.*, 424 F.  
5 Supp. 3d 1018 (S.D. Cal. 2019); *Bentley v. United of Omaha Life Insurance*  
6 *Co.*, 2016 WL 7443189 (C.D. Cal. June 22, 2016).

7 9. More recently, the Ninth Circuit followed and expanded on the  
8 holding in *McHugh*. In *Thomas v. State Farm Life Ins.*, the court, relying on  
9 *McHugh*, held that an insurer breaches an insurance policy by lapsing it without  
10 providing the statutory notices and then failing to pay the policy proceeds when  
11 the policy owner passes away. 2021 WL 4596286, at \*1 (9th Cir. Oct. 6, 2021)  
12 (“... State Farm failed to comply with sections 10113.71 and 10113.72, which  
13 prevented the policies from lapsing. Therefore, State Farm breached its  
14 contractual obligations by failing to pay benefits to [the beneficiary] under the  
15 policies after [the policyholder’s] death.” (citation omitted)).

16 10. Despite this longstanding, clear and overwhelming authority, for  
17 life insurance policies originally issued prior to January 1, 2013, Defendants  
18 have wrongfully terminated policies and refused to pay benefits despite failing  
19 to adhere to the Designation Notice Requirements mandated by law with respect  
20 to such policies.

21 11. Plaintiff is one of many beneficiaries that have been damaged by  
22 Defendants’ unlawful conduct.

23 12. Defendants improperly terminated and refused to pay the benefits  
24 of a policy issued by Standard Life to Arthur James Schmidt (“Mr. Schmidt”)—  
25 Mrs. Schmidt’s husband—who died on January 30, 2018.

26 13. Plaintiff brings this suit as a class action to hold Defendants  
27 accountable for its violations of the law and subsequent breaches of their  
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1 insurance contracts, which have severely harmed, and will continue to severely  
2 harm if not stopped, numerous families such as Mrs. Schmidt's.

3 **II. JURISDICTION AND VENUE**

4 14. This action is a civil matter of which this Court has jurisdiction  
5 under the provisions of 28 U.S.C. § 1332.

6 15. The Plaintiff is a citizen and domiciliary of the state of California  
7 residing in Fresno, California.

8 16. Protective Life Insurance Company has its corporate headquarters  
9 in Birmingham, Alabama and is incorporated in the state of Tennessee.  
10 Standard Life is an Oregon corporation with its principal place of business in  
11 Portland, Oregon.

12 17. Upon information and belief, Standard Life entered into an  
13 agreement with Protective Life under which Protective Life assumed the  
14 servicing of all individual life insurance policies issued by Standard Life. This  
15 agreement, on information and belief, made Protective Life and Standard Life  
16 mutual obligors of life insurance policies issued by Standard Life, including,  
17 without limitation, Mrs. Schmidt's husband's policy.

18 18. The amount in controversy well exceeds the jurisdictional  
19 minimum under 28 U.S.C. § 1332.

20 19. Venue is appropriate in this district under 28 U.S.C. § 1391  
21 because a substantial part of the events giving rise to claims at issue occurred  
22 in this district. Plaintiff resides in this district and the life insurance policy at  
23 issue was issued in this district. Protective Life and Standard Life have  
24 transacted business in this district including the issuance of life insurance  
25 policies and was found or had agents in this district.

26 20. This Court has personal jurisdiction over Protective Life and  
27 Standard Life because, among other facts, they: a) transacted business in this  
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1 district; b) issued insurance policies in this district; c) had substantial contacts  
2 with this district; and/or d) were engaged in the illegal conduct alleged herein  
3 which was directed at and had the intended effect of causing injury to persons  
4 residing or located in this district.

### 5 **III. THE PARTIES**

6 21. Janice Schmidt is the sole beneficiary of the insurance policy  
7 issued by Standard Life (and later taken over by Protective Life) to her late-  
8 husband Arthur James Schmidt in 1987 that was entered into in Fresno,  
9 California. Mrs. Schmidt is a resident of Fresno, California.

10 22. Standard Life Insurance Company is an Oregon insurance  
11 company based in Portland, Oregon which, on information and belief, entered  
12 into an agreement with Protective Life in or around July 2001 under which  
13 Protective Life assumed the servicing of all individual life insurance policies  
14 issued by Standard Life.

15 23. Protective Life is an insurance company licensed to conduct the  
16 business of insurance in California. Protective Life is a Tennessee corporation  
17 and is a unit of Dai-ichi Life Holdings Inc., NAIC Group #0458, a publicly  
18 traded corporation headquartered in Tokyo, Japan and listed on the Tokyo Stock  
19 Exchange.

### 20 **IV. FACTUAL ALLEGATIONS**

21 24. In 2012, Assembly Bill 1747 was enacted and created Sections  
22 10113.71 and 10113.72 of the California Insurance Code (the “Statutes”).

23 25. The Statutes went into effect on January 1, 2013 (the “Effective  
24 Date”) and established, among other things, notice and designation  
25 requirements for life insurance policies.

26 26. The mandates of the Statutes included, among other requirements,  
27 the Designation Notice Requirement and Third-Party Notice Requirement,  
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1 which required insurers to give their policyholders an annual opportunity to  
2 designate a third party to receive notice of a potential termination of benefits  
3 for non-payment of a premium and provide notice to a third party designated  
4 by the policyholder of any non-payment of a premium prior to terminating any  
5 policy. The Statutes read in pertinent part:

6 **Section 10113.71:**

7 (b)(1): A notice of pending lapse and termination of a life  
8 insurance policy shall not be effective unless mailed by the insurer  
9 to the named policy owner, a designee named pursuant to Section  
10 10113.72 for an individual life insurance policy, and a known  
11 assignee or other person having an interest in the individual life  
12 insurance policy, at least 30 days prior to the effective date of  
13 termination if termination is for nonpayment of premium.

14 \*\*\*\*\*

15 (3) Notice shall be given to the policy owner and to the designee  
16 by first-class United States mail within 30 days after a premium is  
17 due and unpaid. However, notices made to assignees pursuant to  
18 this section may be done electronically with the consent of the  
19 assignee.

20 \*\*\*

21 **Section 10113.72:**

22 (a) An individual life insurance policy shall not be issued or  
23 delivered in this state until the applicant has been given the right  
24 to designate at least one person, in addition to the applicant, to  
25 receive notice of lapse or termination of a policy for nonpayment  
26 of premium. The insurer shall provide each applicant with a form  
27 to make the designation. That form shall provide the opportunity  
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1 for the applicant to submit the name, address, and telephone  
2 number of at least one person, in addition to the applicant, who is  
3 to receive notice of lapse or termination of the policy for  
4 nonpayment of premium.

5  
6 (b) The insurer shall notify the policy owner annually of the right  
7 to change the written designation or designate one or more  
8 persons. The policy owner may change the designation more often  
9 if he or she chooses to do so.

10  
11 (c) No individual life insurance policy shall lapse or be terminated  
12 for nonpayment of premium unless the insurer, at least 30 days  
13 prior to the effective date of the lapse or termination, gives notice  
14 to the policy owner and to the person or persons designated  
15 pursuant to subdivision (a), at the address provided by the policy  
16 owner for purposes of receiving notice of lapse or termination.  
17 Notice shall be given by first-class United States mail within 30  
18 days after a premium is due and unpaid.

19 Cal. Ins. Code § 10113.71-72.

20 27. Defendants have chosen to disregard the Statutes with respect to  
21 life insurance policies issued or delivered in California prior to January 1, 2013.  
22 Upon information and belief, Defendants have adhered to the Statutes for new  
23 life insurance policies they issued and delivered in California after January 1,  
24 2013 but not those issued and delivered before January 1, 2013. In other words,  
25 Defendants have set up two separate regulatory schemes to administer their life  
26 insurance policies.

1           28. In particular, Defendants have disregarded the Designation Notice  
2 Requirement for insurance policies issued or delivered in California prior to the  
3 Effective Date of the Statutes—January 1, 2013—even if the policies were  
4 renewed after the Effective Date. Upon information and belief, after January 1,  
5 2013 Defendants did start issuing the Designation Notice Requirements for new  
6 life insurance policies. Upon information and belief, as to these new life  
7 insurance policies, neither Standard Life nor Protective Life engaged in any  
8 analysis as to whether or not an insured would benefit from the notice—the  
9 notices were issued annually to all new life insurance policyholders.

10           29. As a result of Defendants’ disregard of the Designation  
11 Requirement of the Statutes, Defendants have improperly terminated policies  
12 in violation of the law.

13           30. Subsequently, Defendants then refused to pay out proceeds that  
14 are due and owing to the beneficiaries of such improperly terminated policies,  
15 breaching those insurance contracts by their failure to pay.

16           31. The policy issued by Standard Life and serviced by Protective Life  
17 insuring Mr. Schmidt—for which Plaintiff is the sole beneficiary—is one  
18 example.

19           32. On March 16, 1987, Standard Life issued a \$250,000 “Whole Life  
20 Insurance” policy to Mr. Schmidt (Policy No. SDO530951) (the “Policy”).  
21 Upon information and belief, in or around July 2001, Protective Life assumed  
22 the servicing of the Policy from Standard Life and thereafter became jointly  
23 responsible with Standard Life for the administration of the policy and payment  
24 of death benefits.

25           33. Pursuant to the Policy, Mr. Schmidt was able to and had the option  
26 to renew the Policy for successive one-year periods by paying the annual  
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1 renewal premium identified in the Policy on or prior to the anniversary date of  
2 March 16th of each year.

3 34. Protective Life purportedly attempted to lapse the Policy for non-  
4 payment of premium on or around April 20, 2014.

5 35. Mr. Schmidt died on January 30, 2018 in Palm Desert, California.

6 36. At no time prior to the termination of the Policy did Protective Life  
7 or Standard Life provide Mr. or Mrs. Schmidt with the opportunity to designate  
8 a third party to receive notification of a pending termination as mandated by the  
9 Designation Notice Requirement of the Statutes.

10 37. Having failed to satisfy the Designation Notice Requirement,  
11 Protective Life and Standard Life, by extension, also failed to notify a third-  
12 party designee of the pending termination in violation of the Third-Party Notice  
13 Requirement of the Statutes.

14 38. After Mr. Schmidt's death, Mrs. Schmidt (the named beneficiary  
15 under the Policy and Mr. Schmidt's widow) through counsel contacted  
16 Protective Life and submitted a claim for benefits.

17 39. Protective Life refused to pay the death benefits payable on the  
18 Policy.

19 40. Moreover, on information belief, at the time Protective Life  
20 refused to pay Mrs. Schmidt's claim, Protective Life was aware of the district  
21 court rulings in *Bentley* and *Thomas*, which had definitively ruled that the  
22 Statutes apply to all policies renewed after the Effective Date.

23 41. Protective Life has direct knowledge of the California Supreme  
24 Court's ruling in *McHugh* as the named defendant in that case and has  
25 knowledge of the Ninth Circuit's ruling in *Thomas*, holdings which undeniably  
26 establish that the Statutes apply to all policies in-force as of the Effective Date  
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1 and that to deny claims based on the purported inapplicability of the Statutes to  
2 policies issued before the Effective Date is a breach of contract.

3 42. Despite the clear and overwhelming precedent that the Statutes  
4 apply to *all* policies, Mrs. Schmidt and those similarly situated have still not  
5 received the insurance proceeds they are rightly owed; this breach has caused  
6 Mrs. Schmidt and those like her to suffer considerable harm in an amount to be  
7 proven at the time of trial.

## 8 V. CLASS ACTION ALLEGATIONS

9 43. Plaintiff brings this class action on behalf of herself and all persons  
10 and entities similarly situated pursuant to Rule 23 of the Federal Rules of Civil  
11 Procedure. Specifically, Plaintiff brings this action on behalf of the following  
12 class, which is subject to refinement based on information learned during  
13 discovery:

14 All beneficiaries who made a claim, or would have been eligible  
15 to make a claim, for the payment of benefits on life insurance  
16 policies issued or delivered in the State of California that were in  
17 force on or after January 1, 2013 or were renewed on or after  
18 January 1, 2013, and were lapsed or were terminated by  
19 Defendants for the non-payment of premium after January 1, 2013,  
20 and as to which policies the notice or notices as described by  
Sections 10113.72(a) or (b) of the California Insurance Code (the  
Designation Notice Requirement”) were not sent by Defendants  
prior to lapse or termination. (hereinafter the “Class”)

21 As used in the class definition, the “notices described by Sections  
22 10113.72(a) or (b) of the California Insurance Code” are:

23 (i) notice to the applicant of the opportunity to designate (with a form  
24 to make the designation by name, address and telephone number) at least  
25 one person, in addition to the applicant, to receive notice of lapse or  
26 termination of an individual life insurance policy for nonpayment of  
27 premium;

1 (ii) notice to the policy owner annually of the opportunity to change  
2 the written designation or designate one or more persons

3 44. Excluded from the Class are: a) Protective Life and Standard Life;  
4 b) any entity in which Protective Life or Standard Life has a controlling interest;  
5 c) Protective Life's and Standard Life's officers, directors, and employees; d)  
6 Protective Life's and Standard Life's legal representatives, successors, and  
7 assigns; e) governmental entities; and f) the Court to which this case is assigned.

8 45. Members of the Class are so numerous and geographically  
9 dispersed, throughout California and likely the United States, that joinder of all  
10 members is impracticable. On information and belief, the Class is readily  
11 identifiable from information and records in Defendants' possession.

12 46. Plaintiff's claims are typical of the claims of the members of the  
13 Class. The Plaintiff and all members of the Class were damaged by the same  
14 wrongful conduct of Defendants, that is, *inter alia*, their failure to satisfy the  
15 Designation Notice Requirement and their breach of their insurance policies  
16 through the wrongful termination and non-payment of proceeds.

17 47. The Plaintiff will fairly and adequately protect and represent the  
18 interests of the Class. Having suffered the same injury from the same conduct  
19 of Defendants, Plaintiff's interests are coincident with, and not antagonistic to,  
20 those of the other members of the Class.

21 48. Plaintiff's counsel in this matter are experienced in the prosecution  
22 of complex commercial class actions such as this one.

23 49. Questions of law and fact common to members of the Class  
24 predominate over questions that may affect only individual class members  
25 because, among other things, Defendants have acted on grounds generally  
26 applicable to the entire Class, thereby making damages with respect to the Class  
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1 as a whole appropriate. Such generally applicable conduct is inherent in  
2 Defendants' wrongful conduct.

3 50. Questions of law and fact common to the Class include, but are not  
4 limited to:

- 5 • Whether Defendants have failed to satisfy the Designation Notice  
6 Requirement;
- 7 • Whether beneficiaries of those life insurance policies in which  
8 Defendants' failed to satisfy the Designation Notice Requirement  
9 have unpaid death benefits;
- 10 • Whether Defendants breached their life insurance policies by not  
11 paying death benefits to beneficiaries despite not satisfying the  
12 Designation Notice Requirement;
- 13 • Whether Defendants' continued refusal to pay the death benefits  
14 under their life insurance policies constitute bad faith given  
15 Defendants' actual notice of the California Supreme Court's ruling  
16 in *McHugh, Bentley, and Thomas*; and
- 17 • The quantum of damages sustained by the Class in the aggregate.

18 51. Treatment of this dispute as a class action is a superior method for  
19 the fair and efficient adjudication of this matter over individual actions. Class  
20 treatment will permit a large number of similarly situated persons to prosecute  
21 their common claims in a single forum simultaneously, efficiently, and without  
22 the unnecessary duplication of evidence, effort, or expense that numerous  
23 individual actions would require. In addition, class treatment will avoid the risk  
24 of inconsistency and varying adjudications.

25 52. The many benefits of proceeding through the class mechanism,  
26 including providing injured persons or entities a method for obtaining redress  
27 on claims that could not practicably or cost effectively be pursued individually,  
28

1 substantially outweighs potential difficulties—which Plaintiff does not  
2 anticipate—in management of this case as a class action.

3 **VI. CAUSES OF ACTION**  
4 **FIRST CAUSE OF ACTION**  
5 **BREACH OF CONTRACTUAL DUTY TO PAY A COVERED CLAIM**  
6 **(ON BEHALF OF THE CLASS)**

7 53. Plaintiff refers to all preceding paragraphs and incorporates them  
8 as though set forth in full in this cause of action.

9 54. Defendants issued, delivered, administered and controlled  
10 payments on life insurance policies, which were binding contracts, to the  
11 policyholders identified in the Class.

12 55. Defendants failed to timely invite the policyholders identified in  
13 the Class— including Mr. and Mrs. Schmidt—to designate a third party to  
14 receive termination notices for non-payment of a premium as required by the  
15 Designation Notice Requirement of the Statutes and because of this failure the  
16 policies did not lapse;

17 56. The policies—including the policy Mr. Schmidt purchased and  
18 Plaintiff Mrs. Schmidt, as beneficiary, has the right to enforce—were still in  
19 effect at the time the beneficiaries made their claim or would have been eligible  
20 to make a claim. Defendants breached their contractual duty under the policies  
21 by refusing to pay benefits to the Class members—including Plaintiff—despite  
22 not satisfying the Designation Notice Requirements of the Statutes.

23 57. As a result of Defendants’ violations of the law and breaches of  
24 their life insurance policies, the Class—including Plaintiff—has sustained  
25 direct damages, as well as other foreseeable and incidental damages, in an  
26 amount to be determined according to proof at the time of trial, plus interest.

27 **SECOND CAUSE OF ACTION**  
28 **BAD FAITH BREACH OF THE IMPLIED COVENANT OF GOOD**  
**FAITH AND FAIR DEALING IN INSURANCE POLICY**

**(ON BEHALF OF THE CLASS)**

1  
2 58. Plaintiff refers to all preceding paragraphs and incorporates them  
3 as if set forth in full in this cause of action.

4 59. In every insurance policy there exists an implied duty of good faith  
5 and fair dealing that the insurance company will not do anything to injure the  
6 right of the insured to receive the full benefit of the policy.

7 60. Defendants breached the duty of good faith and fair dealing they  
8 owed to the policyholders identified in the Class, including their policy with  
9 Mr. and Mrs. Schmidt, which Plaintiff has the right to enforce.

10 61. Defendants breached their duty of good faith and fair dealing and  
11 engaged in bad faith by, *inter alia*, the following acts and/or omissions:

- 12 a. Failing to timely invite the policyholders identified in the  
13 Class—including Mr. and Mrs. Schmidt—to designate a  
14 third party to receive termination notices for non-payment  
15 of a premium as required by the Designation Requirement  
16 of the Statutes;
- 17 b. Failing to abide by the Statutes at all times after the  
18 Effective Date;
- 19 c. Failing to abide by the Statutes and resolve life insurance  
20 claims after becoming aware of the precedential rulings in  
21 California state and federal courts;
- 22 d. Failing to fulfill their ongoing duty to pay claims once  
23 liability became clear; and
- 24 e. Improperly terminating or lapsing the respective policies  
25 and unreasonably refusing, without proper cause, to pay  
26 benefits to the Class members—including Plaintiff—
- 27  
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1 despite not satisfying the Designation and Third-Party  
2 Notice Requirements of the Statutes.

3 62. As a direct and proximate result of Defendants' breaches of their  
4 duty of good faith and fair dealing, Plaintiff and the Class have sustained direct  
5 damages, as well as other foreseeable and incidental damages, in an amount to  
6 be determined according to proof at the time of trial, plus interest.

7 63. As a further direct and proximate result of the unreasonable, bad  
8 faith conduct of Defendants, Plaintiff was compelled to retain legal counsel to  
9 institute litigation to obtain the full and fair benefit of the insurance of which  
10 she and her fellow putative class members are beneficiaries, making Defendants  
11 liable for those attorney fees, witness fees and litigation costs reasonably  
12 incurred in order to obtain the full benefit.

13 64. In addition, Defendants' conduct described herein was intended to  
14 and did cause injury and/or was conduct carried out with a willful and conscious  
15 disregard of the rights of the Class, including Plaintiff, to delay and deny  
16 benefits.

17 65. Defendants' conduct constitutes malice, oppression or fraud and  
18 was unreasonable under California Civil Code section 3294 and/or California  
19 Insurance Code Unfair Practices Act section 790.03 because Defendants'  
20 continued unwillingness to fully satisfy its contractual and statutory obligations  
21 was done and is being done with full knowledge that the courts, including the  
22 California Supreme court, based on, *inter alia*, the language and purpose of the  
23 Statutes, the legislative history and/or long-standing Renewal Principle, have  
24 ruled that the Statutes cover all policies in force as of the Effective Date.

25 66. Defendants' decision to deny coverage and continued  
26 unwillingness to fully satisfy its contractual and statutory obligations was done  
27 with full knowledge that the courts, based on, *inter alia*, the language and  
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1 purpose of the Statutes, the legislative history and long-standing Renewal  
2 Principle, had ruled that its legal position was not a justification to deny  
3 payment, thereby entitling the Class, including Plaintiff, to punitive damages in  
4 an amount appropriate to punish Defendants and deter this type of knowingly  
5 wrongful conduct.

6 67. As the California Supreme Court has held, "...the Legislature  
7 enacted the [the Statutes] not only to provide protections to people in the future,  
8 but also to ensure that existing policy owners don't lose the life insurance  
9 coverage that they may have spent years paying for and on which their loved  
10 ones depend". The Designation and Third-Party Notice Requirements of the  
11 Statutes are very important consumer protections that provided policy owners  
12 the ability to make an informed choice about whether to lapse or cancel or  
13 renew important life insurance benefits. When insurance companies fail to  
14 provide these notices they deprive the consumer of the opportunity to make  
15 informed decisions.

#### 16 **PRAYER FOR RELIEF**

17 Plaintiff, on behalf of herself and each Class member, prays for relief and  
18 judgment as follows:

- 19 A. For certification of this matter as a Class Action pursuant to  
20 Federal Rule of Civil Procedure 23, and appointment of Plaintiff  
21 as a Class Representative and her counsel of record as Class  
22 Counsel;
  - 23 B. For economic and foreseeable consequential damages, plus  
24 prejudgment interest, against Defendants for breach of contract  
25 and bad faith;
  - 26 C. For punitive damages based on Defendants' ongoing bad faith;
- 27  
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- 1 D. For an award of attorneys' fees and costs of suit pursuant to, *inter*  
2 *alia*, the Public Benefit Doctrine and California Code of Civil  
3 Procedure Section 1021.5 on the basis that private enforcement of  
4 these rights is necessary, and the interests Plaintiff seeks to protect  
5 significantly benefit the general public and/or pursuant to  
6 California Civil Code section 3294;
- 7 E. Prejudgment pursuant to § 3289(b) of the California Insurance  
8 Code at a rate of 10% and applicable post judgment interest; and
- 9 F. All other and further relief as this Honorable court deems just and  
10 proper.

11 **JURY DEMAND**

12 Plaintiff, on behalf of the Class, hereby demands a jury trial on all causes  
13 of action that can be heard by a jury

14 Respectfully submitted,

15  
16 December 16, 2021

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