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Attorneys for Plaintiff SHERYL CLARK,  
and on Behalf of the Class

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF CALIFORNIA**

SHERYL CLARK, Individually, as  
Successor-in-Interest to Delaine  
Stowell, on Behalf of the Estate of  
Delaine Stowell, and on Behalf of the  
Class,

Plaintiff,

vs.

TRANSAMERICA LIFE  
INSURANCE COMPANY, an Iowa  
Corporation

Defendant.

Case No.:

**CLASS ACTION COMPLAINT FOR:**

- (1) **DECLARATORY RELIEF OR JUDGMENT (CAL. CIV. CODE, §§ 1060, *ET SEQ.*);**
  - (2) **DECLARATORY RELIEF OR JUDGMENT (28 U.S.C. 2201, *ET SEQ.*);**
  - (3) **BREACH OF CONTRACT;**
  - (4) **UNFAIR COMPETITION (CAL. BUS. & PROF. CODE, §§ 17200, *ET SEQ.*)**
  - (5) **FINANCIAL ELDER ABUSE**
- DEMAND FOR JURY TRIAL**

1 Plaintiff SHERYL CLARK, individually, as Successor-in-interest to Delaine  
2 Stowell, on Behalf of the Estate of Delaine Stowell and on behalf of the class and  
3 sub-class defined below, makes the following allegations against Defendant  
4 TRANSAMERICA LIFE INSURANCE COMPANY (“Transamerica”) as follows:

5 **I. NATURE OF THE CASE**

6 1. Transamerica refuses to comply with mandatory provisions of the  
7 California Insurance Code as well as California common law regulating the lapse and  
8 termination of life insurance policies.

9 2. Since January 1, 2013, Transamerica and other related entities have  
10 systematically and purposely failed to provide certain classes of policy owners,  
11 insureds, assignees and others, proper notices of pending lapse or termination.  
12 Transamerica has refused to provide required grace periods. It has also failed to  
13 notify thousands of policy owners of their right to designate someone to receive  
14 critical notices and information regarding life insurance, despite being required to do  
15 so on an annual basis. All of these important safeguards are required by, among other  
16 sources, California Insurance Code Sections 10113.71 and 10113.72.<sup>1</sup> California law  
17 requires strict compliance with these safeguards and Transamerica refuses to comply.

18 3. As a result, Transamerica has failed to properly administer policies,  
19 evaluate the status of payments due under policies and pay claims to beneficiaries for  
20 policies improperly lapsed or terminated. Indeed, thousands of policy owners and  
21 beneficiaries have lost, and continue to lose, the benefit, value and security of their  
22 life insurance; have been, and continue to be, forced into unnecessary reinstatements;  
23 and in many instances have lost all reasonable access to any insurance at all.  
24 Ultimately, Defendant has robbed thousands of their customers and beneficiaries of  
25 the investment in such policies, policy benefits as well as the security intended to be  
26 provided from such insurance.

27 <sup>1</sup> Unless otherwise stated, all references to “Section 10113.71” and/or “10113.72”  
28 refer to California Insurance Code Sections 10113.71 and/or 10113.72. Sometimes  
these will be collectively referred to as “The Statutes.”

1           4.     The injury to Transamerica’s customers and beneficiaries continues  
2 today, with policyholders currently paying unnecessary or inflated premiums, or  
3 unknowingly suffering under improper forced “reinstatements” which diminish the  
4 value or conditions of the policies. And there are numerous policyholders whom  
5 Transamerica told they have no insurance, but whose policies are, unbeknownst to  
6 them, actually still in force and in some situations with benefits being owed and  
7 unpaid.

8           5.     The Statutes were enacted to protect Californians and others, primarily  
9 seniors and the ill, as well as the intended beneficiaries of such individuals. The  
10 Statutes were designed to prevent or lessen the possibility of unintended or  
11 uninformed loss of valuable and necessary life insurance for just one missed payment  
12 or resulting from a policyholders’ physical or mental infirmity. The Statutes were  
13 written to codify existing law regarding lapse and termination of life insurance, which  
14 required strict compliance with applicable law and policy provisions before  
15 termination takes effect. The Statutes were also intended to standardize the  
16 procedures used in all life insurance when a policyholder misses a premium payment  
17 and when an insurer attempts to apply provisions of the policy that allow for lapse  
18 and termination. These rules are also consistent with the strong public policy to give  
19 all policy owners and insureds mechanisms to allow for secondary notices of lapse  
20 and termination and overall to prevent unintended forfeitures.

21           6.     The Statutes were also designed specifically to deal with the unique  
22 nature of life insurance. When a potential claim for benefits arises, the policy owner  
23 and party responsible for payment of premiums is often the insured, and due to their  
24 death, is no longer available to explain the circumstances related to any potential  
25 lapse or termination of coverage. The Legislature also recognized that the beneficiary  
26 is often unaware of the circumstances related to any lapse of coverage. Rather, the  
27 insurer is fully in control of the documentation and requirements for termination of  
28 coverage. As such, California requires strict compliance with all statutory and

1 contractual provisions governing termination of an otherwise in-force policy  
2 regardless of the nonpayment of premium. In other words, no lapse or termination  
3 for failure to pay a premium is effective, and the policy remains in force even if  
4 premiums are unpaid, unless and until all statutory and contractual provisions are  
5 satisfied.

6 7. Plaintiff is a victim of Transamerica's failures. Plaintiff, on behalf of  
7 herself and others similarly situated brings this action to recover for the injuries and  
8 damages resulting from these violations. Plaintiff also requests injunctive relief  
9 intended to ensure Transamerica's future compliance with these important consumer  
10 safeguards and to prevent the ongoing violation of these important statutes.

## 11 **II. PARTIES**

12 8. Plaintiff Sheryl Clark is an individual. Plaintiff is and has been a  
13 resident and citizen of Butte County, California at all relevant times. At all relevant  
14 times, Plaintiff has been a beneficiary of the life insurance policy insuring her mother,  
15 Delaine Stowell. Plaintiff Sheryl Clark brings this action in her individual capacity  
16 and as the heir and successor-in-interest of the decedent and insured, Delaine Stowell,  
17 and on behalf of the Estate of Delaine Stowell. Plaintiff Sheryl Clark is the  
18 decedent's biological daughter. Plaintiff is lawfully entitled to pursue all claims and  
19 causes of action for damages pursuant to Code of Civil procedure sections 377.32,  
20 377.61, Welfare and Institution Code section 1567.3(d) and Probate Code section 48.  
21 Filed herewith as **Exhibit "A"** and incorporated herein by reference is Plaintiff's  
22 Declaration pursuant to California Code of Civil Procedure Section 377.32.

23 9. Delaine Stowell was Sheryl Clark's mother. She died in California, as  
24 a California resident and citizen, on August 7, 2018. Ms. Stowell was a California  
25 resident and citizen for her entire life. At all times relevant, Delaine Stowell was  
26 the sole named policy owner and the sole named insured under the terms of the policy.

27 10. Defendant Transamerica Life Insurance Company is an Iowa Company  
28 doing business in California. It is registered to do business in California and is

1 licensed by the California Department of Insurance to sell life insurance here in  
2 California. Transamerica is one of the largest sellers of life insurance in California  
3 by market share. From 2013 until the present Transamerica was the insurer  
4 responsible for administering and honoring the subject policy.

5 **III. JURISDICTION AND VENUE**

6 11. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332,  
7 including under the Class Action Fairness Act. The matter in controversy, exclusive  
8 of interest and costs, exceeds the sum or value of \$75,000, and is between citizens of  
9 different States. Also, the matter or controversy is a putative class action with over  
10 100 class members and with over \$5 million in controversy.

11 12. Venue is proper in the Eastern District of California pursuant to 28  
12 U.S.C. Section 1391(b) through (d), because Defendant is authorized to conduct  
13 business in this District and has intentionally availed itself of the laws and markets  
14 within this District; does substantial business in this District; and is subject to  
15 personal jurisdiction in this District. Plaintiff also resides in this District.

16 **IV. THE ENACTMENT AND APPLICABILITY OF**  
17 **INSURANCE CODE SECTIONS 10113.71 AND 10113.72**

18 13. In 2012, after extensive and open hearings and public consideration,  
19 including with Transamerica all other major insurance companies doing business in  
20 California, the California Legislature enacted Insurance Code Sections 10113.71 and  
21 10113.72, which instituted procedural requirements for the termination and lapse of  
22 life insurance policies. The Statutes were written to avoid unintended forfeitures of  
23 life insurance policies primarily being suffered by the elderly and the ill. The  
24 Legislature found that there was a significant problem in California with the elderly  
25 abruptly losing insurance because they happened to miss a premium payment despite  
26 having faithfully and timely paid for many years.

27 14. Sections 10113.71 and 10113.72, in addition to other statutory  
28 provisions and laws in effect as of January 1, 2013, mandate that every life insurance

1 policy in or governed by California law, including policies that have issued, been  
2 delivered, renewed, reinstated, converted or otherwise become subject to the  
3 jurisdiction of California, shall contain a 60-day grace period and that the policy shall  
4 remain in force during the grace period. Cal. Ins. Code § 10113.71(a).

5 15. The provisions further require that before an individual life insurance  
6 policy governed by California law is lapsed or terminated for nonpayment of  
7 premium, a 30-day written notice of pending lapse or termination must be mailed not  
8 only to the policyholder, but also to any additional person who had been designated  
9 to receive such notice, as well as any person having any interest in the policy. Cal.  
10 Ins. Code § 10113.72(c).

11 16. The provisions also mandate that the insurer, on an annual basis, as well  
12 as during any application process, notify the policy owner of his or her right to  
13 designate additional notice recipients.

14 17. Finally, the statutes mandate that no lapse or termination is effective  
15 unless all of the provisions are strictly complied with.

16 18. The provisions are applicable individually and severally to all life  
17 insurance policies governed by California law.

18 19. More specifically, Section 10113.71 reads as follows:

19 **§ 10113.71 Grace Period; Notice of pending lapse and**  
20 **termination of policy; Mailing requirement**

21 (a) Every life insurance policy issued or delivered in this  
22 state shall contain a provision for a grace period of not less than  
23 60 days from the premium due date. The 60-day grace period  
24 shall not run concurrently with the period of paid coverage. The  
25 provision shall provide that the policy shall remain in force  
26 during the grace period.

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

1 (2) This subdivision shall not apply to nonrenewal.

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

7 (c) For purposes of this section, a life insurance policy  
8 includes, but is not limited to, an individual life insurance  
9 policy and a group life insurance policy, except where  
10 otherwise provided.

11 Next, Section 10113.72 says:

12 **§ 10113.72 Right to designate person to receive notice of  
13 lapse or termination of policy for nonpayment of premium;  
14 Right to change designation; Notice of lapse or termination**

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

25 (b) The insurer shall notify the policy owner annually of the  
26 right to change the written designation or designate one or more  
27 persons. The policy owner may change the designation more  
28 often if he or she chooses to do so.

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

20. These Statutes are regulatory in nature and contain no grandfather  
provisions limiting their application only to policies first issued or delivered after  
January 1, 2013. Rather, they apply to all policies still *in existence* as of January 1,  
2013.



1 21. These provisions were intended to standardize the procedures and  
2 notices used by life insurers to terminate policies. The Statutes further codified long-  
3 standing California law and policy regarding the State's desire to protect  
4 policyholders and beneficiaries from loss of insurance resulting from the failure, e.g.,  
5 to pay a single premium after years of timely payments. These provisions,  
6 individually and collectively, were intended to apply to policies in force as of January  
7 1, 2013 and thereafter, including those policies that would come within the  
8 jurisdiction of the state and regardless of the date of any original issuance.

9 22. The principal supporters of the legislation were groups representing the  
10 elderly and the retired as well as constituents dealing with health concerns. There was  
11 no substantive opposition to the legislation during its drafting. Rather, the insurance  
12 industry supported these new provisions and accepted that the goal and purpose of  
13 the legislation was legitimate and in the best interest of their policyholders and  
14 beneficiaries. Prior to enactment, there was never a public or private dispute that the  
15 enactment of provisions codifying a contractual right to a 30-day written notice, a 60-  
16 day grace period, and an annual right to designate was within the proper exercise of  
17 California's regulatory authority. Furthermore, after repeated review, it was  
18 determined that enactment of these provisions would have no substantial fiscal or  
19 economic ill effect. It was determined that these Statutes support a strong public  
20 policy to safeguard consumers' investment in life insurance, and the safety blanket  
21 that insurance provides.

22 **V. TRANSAMERICA'S VIOLATIONS OF LAW**

23 23. In 2012, Defendant was made fully aware of the drafting and enactment  
24 of these provisions. And through its own lobbying groups and regulatory advisors,  
25 Defendant understood how and in what fashion The Statutes would apply.

26 24. Despite early knowledge of the Statutes and their mandates, since  
27 January 1, 2013, Defendant has failed to comply with the Statutes.  
28



1 25. Transamerica’s failure to comply with these provisions has resulted in,  
2 amongst other impacts, the improper lapse, termination, and/or forced reinstatement  
3 of policies, the loss of the capacity of policyholders to be insured, the denial of actual  
4 claims, and the loss of millions, or perhaps billions, in insurance benefits that  
5 Defendant has illegally retained. Plaintiff and her family have suffered, and continue  
6 to suffer various forms of injury and loss including injury from an improper lapse,  
7 improper requirement of reinstatement and termination, and from Defendant’s failure  
8 to reinstate coverage or otherwise pay the benefits due.

9 26. Plaintiff is informed and believes that the failure of Defendant to comply  
10 with these statutes as well as the resulting injuries and damages continue to this day  
11 for many Californians.

12 **VI. PLAINTIFF’S POLICY, LAPSE, TERMINATION, AND DENIAL OF**  
13 **HER CLAIM**

14 27. In or before 1992, Delaine Stowell purchased, from or in California, a  
15 life insurance policy (the “Policy” or “Subject Policy”) from JCPenney Life  
16 Insurance Company, which was later fully acquired and subsumed by Defendant,  
17 along with the Subject Policy and all of its obligations (Policy No. 74LB810725). As  
18 of January 1, 2013 and at all times thereafter, Defendant was responsible for all  
19 contractual and statutory obligations associated with the Policy.

20 28. The Policy was purchased in California, was issued and delivered in  
21 California, and thereafter was continuously renewed and kept in force through the  
22 payment of premiums pursuant to the terms of the Policy. All premiums were paid  
23 from California and as such the Policy was and continues to be governed by the laws  
24 of the State of California including but not limited to The Statutes and the statutory  
25 provisions of the California Insurance Code pursuant to California Ins. Code Section  
26 41 *et. al.* The purpose of this policy was to insure the life of Delaine Stowell and  
27 provide protection to her beneficiary, Plaintiff Sheryl Clark.  
28

1           29.     The value of the policy is \$12,000 or more and names Plaintiff as a  
2 beneficiary. The premium payment was about \$19 per month. Plaintiff stayed  
3 current on the policy and faithfully paid the premiums every month for almost 30  
4 years, and well beyond the enacting of The Statutes by the California legislature in  
5 2013. Premiums were fully paid in 2013, 2014, 2015, 2016, 2017 and for some period  
6 in 2018.

7           30.     Despite the application of California law, at no time during 2014, 2015,  
8 2016, 2017, or 2018 did Defendant advise Plaintiff or Ms. Stowell in any fashion of  
9 their right to designate another recipient of important policy notices, of their right to  
10 a 30-day notice prior to any effective lapse or termination, or of their right to a 60-  
11 day grace period. Rather, at various times, Defendant misstated the actual form and  
12 type of notice required by law and the terms of the policy. Defendant also withheld  
13 and concealed from Plaintiff and Ms. Stowell the right to designate and Defendant's  
14 previous failure to comply with those provisions. Plaintiff is informed and believes  
15 that these failures were part of a general business practice of Transamerica of  
16 ignoring and misapplying Sections 10113.71 and 10113.72.

17           31.     After making premium payments consistently for over 25 years via bank  
18 draft, one payment was apparently missed in or around June of 2018. Defendant  
19 attempted to lapse or terminate coverage in or around July of 2018. The termination  
20 was illegal and ineffective. At this time Ms. Stowell was ill, incapacitated, and for  
21 some period hospitalized. Plaintiff has no record of her or Ms. Stowell receiving  
22 notices of any missed premium payment in 2018 or of any impending lapse or the  
23 triggering of any mandatory 60-day grace period or of any right to designate an  
24 individual to receive notices. At all times Ms. Stowell was financially capable of  
25 paying all premiums due and was desirous of maintaining the policy.

26           32.     Ms. Stowell died in August of 2018. At the time Ms. Stowell died, the  
27 Policy had not been legally and effectively terminated and was in full force.  
28

1 33. Prior to the filing of this suit, in 2019, Plaintiff made a claim with  
2 Transamerica after the death of insured Delaine Stowell. At the time, Plaintiff was  
3 still unaware that there had been any problem with the subject policy or the payment  
4 of its premiums.

5 34. Transamerica, though, denied Plaintiff's claim citing, for the first time,  
6 a supposed lapse for nonpayment of premium. Plaintiff then requested information  
7 regarding the lapse. Transamerica advised that it had searched for and forwarded  
8 policy notices that it claims were sent, but Transamerica produced no evidence of any  
9 mailings that would have satisfied The Statutes nor were the forwarded notices  
10 sufficient to comply with the terms and conditions of the Statutes. Had Transamerica  
11 had any proof of such mailing, such proof should have been produced prior to the  
12 denial of the claim. The only notices that Transamerica provided during this inquiry  
13 do not satisfy the notice or grace period requirements of The Statutes. Further, in  
14 responding to Plaintiff's claim, Transamerica knew that it had not provided Ms.  
15 Stowell the statutorily required notices and rights guaranteed by The Statutes and  
16 withheld this information from the Plaintiff.

17 35. At no point relevant to this matter has Defendant, in any fashion,  
18 complied with or attempted to comply with the provisions of Sections 10113.71 or  
19 10113.72 regarding the subject policy. Defendant had not provided any notice of  
20 pending lapse or termination. No notice was provided for the alleged lapse or  
21 termination of the policy in 2018. No one had honored or given a 60-day grace period  
22 as required by Section 10113.71(a) or the terms of the Policy.

23 36. Defendant also violated Section 10113.72 by failing to provide notice of  
24 a right to designate an alternative notice recipient. As such, all notices were per se  
25 ineffective and the policy remained in force as of the death of Ms. Stowell.

26 37. Finally, despite the lack of strict compliance with these provisions,  
27 Defendant has failed to pay Plaintiff benefits owed under the policy. This  
28

1 termination and denial of claim not only violated the terms of the California Insurance  
2 Code, but also constituted a material breach of the contract.

3 38. Due to Defendant's violation of these Statutes, the attempted lapse and  
4 termination of the Policy was void and ineffective. Defendant failed to substantially,  
5 let alone strictly, comply with the mandates of Sections 10113.71 or 10113.72. As  
6 such, the Policy remained in force through the insured's death and is currently in full  
7 force. Therefore, benefits are owed under the terms of the policy as well as under  
8 California law. The failure to comply with these provisions was, and remains, a  
9 material breach of the Policy.

## 10 **VII. CLASS ACTION ALLEGATIONS**

11 39. Plaintiff is informed and believes that Defendant has not, since at least  
12 January 1, 2013, properly complied with the provisions of Insurance Code Sections  
13 10113.71 and/or 10113.72. Since that time, Defendant has failed and continues to fail  
14 to provide these protections to policy owners, assignees and their beneficiaries.

15 40. Plaintiff contends that the handling of the Policy is and was consistent  
16 with Defendant's standardized policies and procedures. Defendant has  
17 systematically failed to provide a class of policy owners the protections afforded by  
18 Sections 10113.71 and 10113.72.

19 41. As a matter of standard policy or standard operating procedure,  
20 Defendant has not, since at least January 1, 2013, provided or utilized a contractual  
21 60-day grace period for many insureds.

22 42. As a matter of standard policy or standard operating procedure,  
23 Defendant has not, since at least January 1, 2013, provided or utilized compliant  
24 notices of pending lapse and or termination consistent with the provisions of  
25 California law and in particular Sections 10113.71 and 10113.72 for many insureds.

26 43. Since at least January 1, 2013, has not utilized the provisions of Ins.  
27 Code Sections 10113.71 and 1003.72 to determine the effectiveness of any attempted  
28 termination of the policy and as such Defendant has caused, and continues to cause

1 injury and damage to policy owners, beneficiaries, and persons of interest intended  
2 to be protected by Sections 10113.71 and 10113.72 or has otherwise harmed same  
3 and will continue to do so into the future unless enjoined or prohibited in some  
4 fashion.

5 44. Plaintiff brings this action on behalf of all members of the following  
6 proposed class:

7 **The Class:**

8 All past, present, and future owners or beneficiaries of Defendant's  
9 individual life insurance policies in force on or after January 1, 2013  
10 and governed by Sections 10113.71 and/or 10113.72, where the  
11 policies underwent or will undergo lapse, termination, and/or  
12 reinstatement without Defendant first providing written notice of and  
13 an actual 60-day grace period, a 30-day notice of pending lapse and  
14 termination, and/or an annual notice of a right to designate at least one  
15 other person to receive notice of lapse or termination of a policy for  
16 nonpayment of premium.

17 **The Elder Abuse Sub-Class:**

18 All members of the Class defined above who were also 65 years of age  
19 or older at the time the policy lapse or terminated.

20 45. Subject to additional information obtained through further investigation  
21 and discovery, the foregoing class definition may be expanded or narrowed by  
22 amendment or amended complaint or at the time of moving for class certification.  
23 Specifically excluded from the proposed Class is the Judge assigned to this action,  
24 and any member of the Judge's immediate family.

25 46. Defendant's conduct has imposed a common injury and/or harm on all  
26 class members. Defendant has acted, and has refused to act, on grounds generally  
27 applicable to the class members, which makes final injunctive relief with respect to  
28 each claim as a whole appropriate.

29 47. Plaintiff will and does faithfully represent and is a member of the Class.

30 48. ***Numerosity.*** The members of the Class and sub-class are so numerous  
31 that their individual joinder is impracticable. Plaintiff is informed and believes, and  
32 on that basis alleges, that the proposed Class and sub-class contains thousands and  
33 perhaps tens-of-thousands of members. The precise number of members is unknown

1 to Plaintiff. The true number of members is known or ascertainable by Defendant,  
2 as are their identities. Thus, Class members may likely be notified of the pendency  
3 of this action by first class mail, electronic mail, and/or by published notice.

4 49. ***Existence and Predominance of Common Questions and Answers of***  
5 ***Law and Fact.*** There is a well-defined community of interest in the questions and  
6 answers of law and fact involved affecting class members. The questions and  
7 answers of law and fact common to the class and sub-class predominate over  
8 questions and answers affecting only individual class members, including, but not  
9 limited to, the following:

10 a. Whether Sections 10113.71 and 10113.72, in whole or in part,  
11 apply to Defendant's life insurance policies.

12 b. Has Defendant violated and does it continue to violate the  
13 provisions of Sections 10113.71 and 10113.72?

14 c. Whether Defendant's life insurance policies have been  
15 ineffectively lapsed or terminated or subsequently been unnecessarily  
16 modified through reinstatement.

17 d. Whether Defendant is required to provide grace periods, timely  
18 and proper written notices of pending lapse or pending termination, and to  
19 provide policyholders a right to designate as set forth in Section 10113.72.

20 e. Should the Court invalidate improper lapses, terminations, and/or  
21 reinstatements of policies that resulted from Defendant's failure to comply  
22 with the Insurance Code?

23 f. Should Defendant be required to make payments to beneficiaries  
24 of Policies where the insured has died and the policy was lapsed or terminated  
25 in violation of Sections 10113.71 or 10113.72?

26 g. Whether Defendant knew or should have known that their  
27 conduct was directed to one or more persons aged 65 or older.  
28

1           50.    **Typicality.** Plaintiff’s claims are typical of the claims of the members  
2 of the Class and sub-class because Plaintiff and each member of the Class and sub-  
3 class were victims of the same statutory violations. Further, Plaintiff’s claims are  
4 typical of the claims of her fellow Class members, which all arise from the same  
5 operative facts involving the Defendant’s unlawful violations of Sections 10113.71  
6 and 10113.72.

7           51.    **Adequacy of Representation.** Plaintiff will fairly and adequately protect  
8 the interests of the Class and sub-class. Plaintiff has retained counsel highly  
9 experienced in handling class action litigation, including that which involves  
10 consumer protection from unfair insurance business practices, and Plaintiff intends  
11 to prosecute this action vigorously. Plaintiff has no interest adverse or antagonistic  
12 to that of the Class.

13           52.    **Superiority.** A class action is a superior method for the fair and efficient  
14 adjudication of this controversy. The damages or other financial detriment suffered  
15 by individual Class members are relatively Clark compared to the burden and expense  
16 that would be expended by individual litigation of their claims against Defendant. It  
17 would thus be virtually impossible for Class members, on an individual basis, to  
18 obtain effective redress for the wrongs done to them. Furthermore, even if Class  
19 members could afford such individualized litigation, the court system could not.  
20 Individualized litigation would create the danger of inconsistent or contradictory  
21 judgments arising from the same set of facts. Individualized litigation would also  
22 increase the delay and expense to all parties and the court system from the issues  
23 raised by this action. The class action device provides the benefit of adjudication of  
24 these issues in a single proceeding, economies of scale, and comprehensive  
25 supervision by a single court, and presents no unusual management difficulties under  
26 the circumstances. Moreover, many Class members remain unaware of their rights  
27 and without this Class action, would remain unaware of their rights and benefits.  
28



1 53. In the alternative, the Class and sub-class may also be certified because:

2 (a) The prosecution of separate actions by individual Class members  
3 would create a risk of inconsistent or varying adjudication with respect to  
4 individual Class members that would establish incompatible standards of  
5 conduct for the Defendant;

6 (b) The prosecution of separate actions by individual class members  
7 would create a risk of adjudications with respect to them that would, as a  
8 practical matter, be dispositive of the interests of other Class members not  
9 parties to the adjudications, or would substantially impair or impede their  
10 ability to protect their interests; and/or

11 (c) Defendant has acted or refused to act on grounds generally  
12 applicable to the Class, thereby making appropriate final declaratory and/or  
13 injunctive relief with respect to the members of the Class as a whole.

14 54. Unless the Class (including the sub-class) is certified, Defendant will  
15 retain monies received because of its conduct taken against the class members and  
16 Plaintiff. Unless a Class-wide injunction is issued, Defendant will continue to  
17 commit the violations alleged and members of the Class will continue to be harmed.

18 55. Plaintiff knows of no difficulty likely to be encountered in the  
19 management of this litigation that would preclude its maintenance as a Class Action.  
20 Because the action is brought as a Class Action, the Court need only apply a single  
21 set of California laws as they relate to Defendant's violation of Sections 10113.71  
22 and 10113.72.

23 56. Plaintiff has incurred, and will incur, expenses for attorney's fees and  
24 costs in bringing this action. These attorney's fees and costs are necessary for the  
25 prosecution of this action and will result in a benefit to each of the members of the  
26 class.

27  
28

**VIII. FIRST CAUSE OF ACTION**

**FOR DECLARATORY JUDGMENT OR RELIEF  
(CAL CIV. CODE § 1060 *ET SEQ.*)**

**(By Plaintiff, individually and as successor-in-interest to Delaine Stowell and on Behalf of the Class and Sub-Class)**

57. Plaintiff incorporates by reference each and every allegation contained above.

58. Under California law, “[a]ny person interested under a written instrument...or under a contract, or who desires a declaration of his or her rights or duties with respect to another...may, in cases of an actual controversy relating to the legal rights and duties of the respective parties,” may maintain a complaint or cross complaint “for a declaration of his or her rights and duties.” Furthermore, he or she “may ask for a declaration of rights or duties, either alone, or with other relief, and the court may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed at the time.” (Cal. Civ. Code § 1060.)

**A. Basis for Relief**

59. On January 1, 2013, the California Insurance Code was amended by Sections 10113.71 and 10113.72. The provisions of The Statutes were immediately, and thereafter, read into all in-force policies regardless of the date of issuance.

60. These statutes and amendments to the California Insurance Code were intended to and do regulate the lapse and termination procedures arising from the nonpayment of premiums which may occur from the date of enactment and thereafter.

61. The amendments were not intended to relieve or waive a policyholder’s continuing obligation to pay premiums but operated to keep the policy in force until the policy was properly lapsed or terminated consistent with the statutory provisions which were incorporated into the terms of the policy by law. Each of these statutory requirements were intended to stand alone.

62. Forfeiture provisions for nonpayment of premium for life insurance policies are strictly construed against lapse or termination and California law

1 disfavors forfeiture of insurance. Forfeitures “are often the means of great oppression  
2 and injustice” and “the courts should be liberal in construing the transaction in favor  
3 of avoiding a forfeiture.” (*Ins. Co. v. Norton* (1978) 96 U.S. 234, 242.) “Forfeiture  
4 of a policy will be avoided on any reasonable showing.” *Klotz v. Old Line Life Ins.*  
5 *Co. of Amer.*, 955 F.Supp. 1183, 1188 (N.D. Cal. 1996).

6 **B. There is an Actual Controversy Requiring a Declaration of Rights**  
7 **and Duties**

8 63. An actual controversy has arisen and now exists between Plaintiff and  
9 Defendant concerning their respective rights and duties under the California  
10 Insurance Code and the Policy. Plaintiff contends Sections 10113.71 and 10113.72  
11 apply to the Subject Policy as well as all of Defendant’s California life insurance  
12 policies in force as of or after January 1, 2013, including any policies that were  
13 renewed in California on or after January 1, 2013. Plaintiff also contends these  
14 Statutes govern the manner and procedure in which life insurance policies can legally  
15 be lapsed or terminated as of January 1, 2013, and thereafter. Defendant contends  
16 and acts as if the Statutes do not apply to these policies.

17 64. Plaintiff desires a judicial determination of rights and duties, and a  
18 declaration or judgment that Sections 10113.71 and 10113.72 applied as of January  
19 1, 2013, to Defendant’s California policies in force as of or at any time after January  
20 1, 2013, including the Subject Policy.

21 65. A judicial declaration would advise insureds and their beneficiaries like  
22 Plaintiff of their rights, and would advise Defendant of its duties to Plaintiff and to  
23 Class members concerning policyholders' rights to designate individuals to receive  
24 notices of pending lapse and termination and the right to receive notice of, and the  
25 ability to properly utilize, the legally required grace period. A judicial declaration is  
26 also necessary to determine the validity of any unnecessary reinstatements obtained,  
27 to determine whether policies were legally in force at the times of deaths of insureds,  
28

1 and to determine whether beneficiaries were wrongfully denied payment of benefits  
2 under their policies.

3 **IX. SECOND CAUSE OF ACTION**

4 **FOR DECLARATORY JUDGMENT OR RELIEF (FEDERAL  
5 DECLARATORY JUDGMENT ACT – 28 U.S.C. §§ 2201, *ET SEQ.*)**

6 **(By Plaintiff, individually and as successor-in-interest to Delaine Stowell and  
7 on Behalf of the Class and Sub-Class)**

8 66. Plaintiff incorporates by reference each and every allegation contained  
9 above.

10 67. Under federal law, “[i]n a case of actual controversy within its  
11 jurisdiction, ... any court of the United States ... may declare the rights and other  
12 legal relations of any interested party seeking such declaration, whether or not further  
13 relief is or could be sought. Any such declaration shall have the force and  
14 effect of a final judgment and shall be reviewable as such.” (28 U.S.C. 2201; Fed.  
15 Rule Civ. Proc., Rule 57).

16 68. Here, an actual controversy has arisen and now exists between Plaintiff  
17 and Defendant within this Court’s jurisdiction concerning the parties’ respective  
18 rights, duties, and legal relations under the California Insurance Code and the Policy.  
19 Plaintiff contends Sections 10113.71 and 10113.72 apply to the Subject Policy and  
20 all of Defendant’s California life insurance policies in force as of or after January 1,  
21 2013, including any policies that were renewed in California on or after January 1,  
22 2013. Plaintiff also contends these Statutes govern the manner and procedure in  
23 which life insurance policies can legally be lapsed or terminated as of January 1,  
24 2013, and thereafter. Defendant contend and acts as if Sections 10113.71 and  
25 10113.72 do not apply to many categories of their policies, such as Plaintiff’s Policy.

26 69. Plaintiff hereby seeks a judicial determination of rights and duties, and  
27 a declaration or judgment that Sections 10113.71 and 10113.72 applied as of January  
28 1, 2013, to Defendant’s California policies in force as of or at any time after January  
1, 2013, including Plaintiff’s Policy.

1 70. A judicial declaration would advise insureds and their beneficiaries like  
2 Plaintiff of their rights, and would advise Defendant of its duties to Plaintiff and to  
3 Class members concerning policyholders' rights to designate individuals to receive  
4 notices of pending lapse and termination and the right to receive notice of, and the  
5 ability to properly utilize, the legally required grace period. A judicial declaration is  
6 also necessary to determine the validity of any unnecessary reinstatements obtained,  
7 to determine whether policies were legally in force at the times of deaths of insureds,  
8 and to determine whether beneficiaries were wrongfully denied payment of benefits  
9 under their policies.

10 **X. THIRD CAUSE OF ACTION**

11 **BREACH OF CONTRACT**

12 **(By Plaintiff, Individually and as successor-in-interest to Delaine Stowell and**  
13 **on Behalf of the Class and Sub-Class)**

14 71. Plaintiff incorporates by reference each and every allegation contained  
15 above.

16 72. Defendant breached and continue to breach the express terms of their  
17 life insurance policies, including Plaintiff's Policy, as well as the statutory mandates  
18 regarding such policies, by, amongst other things:

19 (a) Failing to include in such policies and failing to provide a 60-day  
20 grace period for purposes of payment of premiums and lapse and termination  
21 of coverage for nonpayment of premium;

22 (b) Lapsing and/or Terminating policies before expiration of the 60-  
23 day grace period;

24 (c) Failing to include in such policies and failing to provide accurate  
25 30-day written notice of pending lapse or termination;

26 (d) Failing to provide proper notice to policyholders on an annual  
27 basis of the policyholders' right to designate individuals to receive notices of  
28 pending lapse or termination;

1 (e) Lapsing or terminating policies without strictly complying with  
2 the terms of the policies;

3 (f) Refusing to pay benefits to beneficiaries, despite knowledge and  
4 information that Defendant had not strictly complied with the terms of the  
5 policies;

6 (g) Improperly requiring reinstatement of policies that had not lapsed  
7 or terminated and which were not required or were not subject to reinstatement;

8 (h) By failing to pay benefits or claims;

9 (i) By failing to provide the notices required by the policy; and

10 (j) By failing to apply the applicable law to the insurance contract.

11 73. Under the terms of this Policy and consistent with laws of California,  
12 Plaintiff was entitled to sufficient written notice and sufficient grace periods prior to  
13 the effectuation of any lapse or termination for non-payment. Transamerica sent no  
14 such notice and provided no such grace periods and, thus, breached the insurance  
15 contract by failing to provide these mandatory protections.

16 74. Transamerica also failed to pay the benefits due under these policies and  
17 thereby breached the express term of the policy where Transamerica promised to pay  
18 the benefits owed.

19 75. All of the aforementioned conduct, individually and collectively,  
20 constitutes material unexcused breaches of the policies. To the extent any contractual  
21 obligations, duties, or conditions are imposed on policyholders or on beneficiaries,  
22 those obligations, duties, and conditions have been waived and/or have been excused  
23 due to Defendant's material breaches. After each material breach, each policy owner  
24 was thus excused from the further tendering of premiums and from any further  
25 performance under the terms of the policy, including but not limited to the acceptance  
26 of any offer by Transamerica of any reinstatement or modification to the policy.

27 76. Defendant's conduct caused injury upon the false, wrongful and  
28 inadequate termination of coverage devaluing the policy and subsequently caused

1 injury in fact through the further denial of an ability to resume coverage, and  
2 ultimately in refusing to pay the claim. Plaintiff and her fellow class members  
3 suffered harm through the loss of coverage, the loss of peace of mind related to the  
4 existence of coverage, and the capacity to utilize the years of investment in the  
5 wrongfully lapsed and terminated policy.

6 77. To the extent any policyholders and/or beneficiaries have failed to  
7 comply with any payment conditions or other conditions for the continuation of  
8 insurance, Defendant are estopped to assert such conditions due to their conduct and  
9 material breaches. Yet, Defendant have done so with respect to Plaintiff and  
10 members of the Class and sub-class.

11 78. In California, the measure of damage for material breach of a life  
12 insurance policy is set as the “sum or sums payable in the manner and at the times as  
13 provided in the policy to person entitled thereto.” Cal. Ins. Code § 10111.

14 79. As a legal and proximate result of the conduct described herein, the class  
15 and sub-class have suffered direct and foreseeable economic damages, including loss  
16 of policy benefits, and allowed interest under the terms of the policy and the law, in  
17 a nature and amount to be proven at the time of trial.

18 **XI. FOURTH CAUSE OF ACTION**

19 **UNFAIR COMPETITION (CALIFORNIA BUSINESS**  
20 **& PROFESSIONS CODE §§ 17200, *ET SEQ.*)**

21 **(By Plaintiff, individually and as successor-in-interest to Delaine Stowell and**  
22 **on Behalf of the Class and Sub-Class)**

23 80. Plaintiff incorporates by reference each and every allegation contained  
24 above.

25 81. California Business and Professions Code Sections 17200, *et. seq.*  
26 (“UCL”) prohibit any unlawful, unfair, deceptive, or fraudulent business practice.

27 82. Defendant committed “unlawful” acts under the UCL by violating and  
28 continuing to violate Sections 10113.71 and 10113.72, including by failing to afford  
insureds, including Plaintiff, the requisite 60-day grace period and/or written 30-day



1 notice prior to any lapse or termination, and further, an annual right to designate  
2 someone else to also receive notices of pending lapse or termination of coverage.

3 83. Plaintiff's policy as well as Policies which have allegedly been lapsed  
4 and/or terminated are still in force and are payable or subject to continuation of  
5 insurance. Because of Transamerica's violations of the California Insurance Code,  
6 Transamerica's attempted terminations or lapses of policies like the Subject Policy  
7 were illegal and ineffective. The policies, in other words, remain in force and subject  
8 to payment of the benefit. Transamerica's failure to comply with the statutory terms  
9 has not effectively terminated any policy, and Plaintiff and her fellow class members  
10 all remain in an ongoing valid contractual relationship with Transamerica.

11 84. Transamerica's unlawful practices also included and continue to include  
12 Defendant's ongoing concealment that Sections 10113.71 and 10113.72 apply to a  
13 class or classes of life insurance in force on or after January 1<sup>st</sup>, 2013. Defendant  
14 continues to conceal and mislead the policyholders and beneficiaries of the existence  
15 of a right to a 30-day lapse warning, a right to a 60 day grace period, a right to an  
16 annual designation, as well as the provisions of these statutes that mandate strict  
17 compliance with these provisions before any effective lapse or termination occurs.  
18 Defendant has failed and continues to fail to explain to the policyholders and  
19 beneficiaries that a life insurance policy in force on or after January 1<sup>st</sup>, 2013 cannot  
20 be effectively terminated until strict compliance with all provisions of the insurance  
21 provisions, and that without such strict compliance the policy remains in force.

22 85. Moreover, Transamerica has committed deceptive acts under the UCL  
23 by affirmatively and erroneously telling class members, like Plaintiff, that their  
24 policies had grace periods of less than 60 days and/or that their policies have lapsed  
25 or terminated. The truth is that the policies had grace periods of at least 60 days and  
26 the policies had *not* actually lapsed or terminated.

27 86. The unlawful and unfair business practices described above have  
28 proximately caused harm and injuries to Plaintiff, the class, and to the general public

1 in the form of lost money and property. The money lost by the class includes the  
2 policy benefits that Transamerica is withholding as well as the premiums that it  
3 wrongfully collected.

4 87. Pursuant to California's UCL, Plaintiff, the general public, and the  
5 members of the Class and sub-class are entitled to restitution of the money or property  
6 acquired by Defendant by means of such business practices, in amounts yet unknown,  
7 but to be ascertained at trial. Examples of this lost money acquired illegally by  
8 Defendant include un-refunded premiums, withheld benefits, and diminution of value  
9 of policies.

10 88. Defendant continues to this day to ignore or otherwise violate The  
11 Statutes, continuing to rob owners and beneficiaries, like Plaintiff, of their lawfully-  
12 owned policies and benefits. As such, and pursuant to California's UCL, Plaintiff  
13 and the members of the class and sub-class and the general public are also entitled to  
14 injunctive relief, including public injunctive relief, against Defendant's ongoing  
15 business practices.

16 89. If Defendant is not enjoined from engaging in the unlawful business  
17 practices described above, Plaintiff, the class and sub-class, and the general public  
18 will be irreparably injured.

19 90. Plaintiff, the general public, and the members of the class and sub-class  
20 have no plain, speedy, and adequate remedy at law.

21 91. Plaintiff's success in this action will result in the enforcement of  
22 important rights affecting the public interest by conferring a significant benefit upon  
23 the general public.

24 92. Private enforcement of these rights is necessary as no public agency has  
25 pursued enforcement and the interests Plaintiff seeks to protect are for the benefit of  
26 the general public. Plaintiff is therefore entitled to an award of attorneys' fees and  
27 costs of suit pursuant to, among others, California's UCL, the Common Fund  
28

1 doctrine, the Public Benefit Doctrine, and California Code of Civil Procedure Section  
2 1021.5.

3 **XII. FIFTH CAUSE OF ACTION**

4 **FINANCIAL ELDER ABUSE (CAL WELF. & INST. CODE § 15610.30)**

5 **(By Plaintiff individual, and as successor-in-interest to Delaine Stowell  
6 and on Behalf of the Class and Sub-Class)**

7 93. Plaintiff incorporates by reference each and every allegation contained  
8 above.

9 94. Plaintiff brings this claim in her representative capacity as successor-in-  
10 interest to Delaine Stowell, and also on behalf of all members of the elder abuse sub-  
11 class.

12 95. By way of its actions described above, Transamerica has taken, hidden,  
13 appropriated, obtained, or retained Plaintiff, Ms. Stowell, and her fellow sub-class  
14 members' money or property and/or assisted in the taking, hiding, appropriating,  
15 obtaining, or retaining of said money or property—namely, the life insurance policies  
16 which Transamerica improperly terminated as well as the benefits associated with  
17 those policies and which Transamerica has withheld and continues to withhold to this  
18 day.

19 96. Ms. Stowell and her fellow sub-class members were each 65 or older at  
20 all relevant times, including at the time of Transamerica's purported termination of  
21 the subject policies as well as at the time Transamerica should have, but failed to, pay  
22 the policy benefits owed.

23 97. Transamerica took, hid, appropriated, obtained, or retained this money  
24 or property for a wrongful use or with the intent to defraud Ms. Stowell, and her  
25 fellow sub-class members.

26 98. Transamerica knew or should have known that its conduct was likely to  
27 be harmful to Ms. Stowell and her fellow sub-class members.  
28

1 99. As a direct result of Transamerica's actions, Ms. Stowell and her fellow  
2 sub-class members were harmed in an amount to be determined at trial.  
3 Transamerica's conduct was a substantial factor in causing that harm.

4 100. Plaintiff thus, as successor-in-interest to Delaine Stowell, and all other  
5 members of the elder abuse sub-class, seeks compensatory damages and all other  
6 remedies otherwise provided by law in an amount to be proven at trial, as well as  
7 reasonable attorney's fees and costs under California Welfare and Institutions Code  
8 Section 15657.5.

9 101. Furthermore, Transamerica, in committing the acts described above, is  
10 guilty of recklessness, oppression, fraud, or malice in the commission of the financial  
11 abuse thereby entitling Plaintiff, as successor-in-interest to Delaine Stowell, and the  
12 sub-class to an award of punitive damages.

13 **XIII. PRAYER FOR RELIEF**

14 Plaintiff prays for relief against Defendant as follows:

- 15 1. For certification of this action as a Class Action;
- 16 2. A declaration of Plaintiff's and the Class' rights pursuant to the  
17 insurance policies issued by Defendant and a declaration that Defendant  
18 has violated The Statutes;
- 19 3. For an injunction to issue against Defendant stopping and remedying the  
20 ongoing violation of The Statutes, including public injunctive relief;
- 21 4. For economic damages according to proof where available;
- 22 5. For restitution where available;
- 23 6. For treble damages under Cal. Civ. Code § 3345;
- 24 7. For interest where available;
- 25 8. For attorneys' fees and all litigation costs and expenses where available;
- 26 and
- 27 9. For such other and further relief as this Court deems just and proper.
- 28

**XIII. DEMAND FOR JURY TRIAL**

Plaintiff hereby requests a trial by jury.

Respectfully submitted:

DATED: March 10, 2020

**NICHOLAS & TOMASEVIC, LLP**

By: /s/ Craig Nicholas  
Craig M. Nicholas (SBN 178444)  
Alex Tomasevic (SBN 245598)  
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Attorneys for Plaintiff


# **EXHIBIT A**

**DECLARATION OF PLAINTIFF (C.C.P. § 377.21)**

I, Sheryl Clark, declare the following on my own personal knowledge:

1. I am the Plaintiff in the foregoing action.
2. Decedent in the action is my biological mother, Delaine Stowell.
3. Decedent died in San Marcos, California, on August 21, 2018.
4. No proceeding is now pending in California for administration of decedent's estate.
5. This declarant is the decedent's successor-in-interest (as defined by C.C.P. § 377.11) and succeeds to the decedent's interest in the action.
6. No other person has a superior right to commence the action or proceeding or to be substituted for the decedent in the pending action or proceeding.
7. Attached to this declaration, as Exhibit "B" is a true and accurate copy of the certified Certificate of Death of decedent.

The declarant further declares under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed the 10 of March, 2020, in Chico, California.

DocuSigned by:  
  
22EFFDF27EE94BC...

\_\_\_\_\_  
SHERYL CLARK



# **EXHIBIT B**

# STATE OF CALIFORNIA CERTIFICATION OF VITAL RECORD

## COUNTY OF SAN DIEGO

### CERTIFICATE OF DEATH

3201837014278

STATE FILE NUMBER

STATE OF CALIFORNIA  
USE BLACK INK ONLY / NO ERASURES, WHITOUTS OR ALTERATIONS  
VS 1467613/06

LOCAL REGISTRATION NUMBER

1. NAME OF DECEDENT - FIRST (Given) <b>DELAINE</b>		2. MIDDLE -		3. LAST (Family) <b>STOWELL</b>	
AKA, ALSO KNOWN AS - (Include full AKA FIRST MIDDLE LAST)					
4. DATE OF BIRTH mm/dd/yyyy [REDACTED]		5. AGE Yrs <b>75</b>	6. FUNERAL HOME YEAR Months: Days: Hours: Minutes:		7. SEX <b>F</b>
8. BIRTH STATE/FOREIGN COUNTRY <b>UNKNOWN</b>	9. SOCIAL SECURITY NUMBER [REDACTED]	11. EVER IN U.S. ARMED FORCES? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK		12. MARITAL STATUS/SPOUSE at Time of Death <b>UNKNOWN</b>	
13. OCCASION - (Medical Level/Exposure from workplace or home) <b>UNKNOWN</b>		14. WAS DECEDENT HISPANIC/LATIN(A)/SPANISH? (If yes, see worksheet or back) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		15. DATE OF DEATH mm/dd/yyyy <b>08/07/2018</b>	
16. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED <b>UNKNOWN</b>		17. KIND OF BUSINESS OR INDUSTRY (e.g. grocery store, road construction, employment agency, etc.) <b>UNKNOWN</b>		18. HOURS IN OCCUPATION <b>UNK</b>	

19. DECEASED - (Medical Level/Exposure from workplace or home) <b>UNKNOWN</b>		20. DECEASED'S RACE - Up to 3 races may be listed (see worksheet on back) <b>WHITE</b>	
--	--	---	--

21. USUAL RESIDENCE	22. CITY [REDACTED]	23. COUNTY/COUNTIES [REDACTED]	24. ZIP CODE [REDACTED]	25. YEARS IN COUNTY <b>UNK</b>	26. STATE/FOREIGN COUNTRY <b>UNKNOWN</b>
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27. INFORMANT'S NAME, RELATIONSHIP [REDACTED]		28. INFORMANT'S SIGNATURE [REDACTED]	
--	--	---	--

29. NAME OF SURVIVING SPOUSE/SPOUSE-FIRST <b>UNKNOWN</b>		30. MIDDLE <b>UNKNOWN</b>		31. LAST (BIRTH NAME) <b>UNKNOWN</b>	
32. NAME OF FATHER/PARENT-FIRST <b>UNKNOWN</b>		33. MIDDLE <b>UNKNOWN</b>		34. LAST (BIRTH NAME) <b>UNKNOWN</b>	
35. NAME OF MOTHER/PARENT-FIRST <b>UNKNOWN</b>		36. MIDDLE <b>UNKNOWN</b>		37. LAST (BIRTH NAME) <b>UNKNOWN</b>	

38. DISPOSITION DATE mm/dd/yyyy <b>08/21/2018</b>	39. PLACE OF FINAL DISPOSITION [REDACTED]		40. TYPE OF DISPOSITION(S) <b>TEMP</b>	41. SIGNATURE OF EMBALMER <b>NOT EMBALMED</b>	42. LICENSE NUMBER
--	--	--	---	--	--------------------

43. NAME OF FUNERAL ESTABLISHMENT <b>PALOMAR MEDICAL CENTER</b>		44. LICENSE NUMBER <b>NONE</b>	45. SIGNATURE OF LOCAL REGISTRAR <b>WILMA J WOOTEN, MD MPH</b>		46. DATE mm/dd/yyyy <b>08/20/2018</b>
--	--	-----------------------------------	---	--	--

47. PLACE OF DEATH [REDACTED]		48. COUNTY <b>SAN DIEGO</b>		49. FACILITY ADDRESS (if location is different from home address) [REDACTED]	
----------------------------------	--	--------------------------------	--	---	--

50. CAUSE OF DEATH [REDACTED]		51. CITY <b>ESCONDIDO</b>	
52. (A) DAYS		53. DEATH REPORTED TO CORONER? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
54. (B) DAYS		55. BIOPSY PERFORMED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
56. (C) DAYS		57. AUTOPSY PERFORMED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
58. (D) YRS		59. USED IN DETERMINING CAUSE? <input type="checkbox"/> YES <input type="checkbox"/> NO	

60. OTHER CAUSE CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 107  
**NONE**

61. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 110? (If yes, list type of operation and date) <b>NO</b>		62. SIGNATURE AND TITLE OF CERTIFIER <b>SASA MACHALA M.D.</b>		63. LICENSE NUMBER <b>A134420</b>	64. DATE mm/dd/yyyy <b>08/10/2018</b>
--	--	--	--	--------------------------------------	--

65. CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSE(S) STATED. Declarer Attended Scene: <input type="checkbox"/> Decedent Last Seen Alive: <input type="checkbox"/>		66. SIGNATURE AND TITLE OF PHYSICIAN [REDACTED]		67. LICENSE NUMBER <b>A134420</b>	68. DATE mm/dd/yyyy <b>08/07/2018</b>
---	--	--	--	--------------------------------------	--

69. PLACE OF INJURY (e.g. Home, construction site, accident scene, etc.)		70. PLACED AT WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		71. INJURY DATE mm/dd/yyyy	72. HOUR (24 Hours)
--	--	--	--	----------------------------	---------------------

1 of 3

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SHERYL CLARK, Individually, and on Behalf of the Class

(b) County of Residence of First Listed Plaintiff Butte County, CA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Craig M. Nicholas (SBN 178444) | Alex Tomasevic (SBN 245598) NICHOLAS & TOMASEVIC, LLP 225 Broadway, 19th Floor, San Diego, CA 92101 | Tel: (619) 325-0492

DEFENDANTS

TRANSAMERICA LIFE INSURANCE COMPANY, an Iowa Corporation

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location. Includes options for Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, and Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Diversity (28 USC § 1332); Declaratory Relief (28 USC §§ 2201, et. seq.)

Brief description of cause: Breach of Contract

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/10/2020

SIGNATURE OF ATTORNEY OF RECORD

Craig M. Nicholas

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Transamerica Allowed Life Insurance Policies to Lapse Despite Lack of Proper Notice](#)

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