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22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA**

24 SILVINA KROETZ, on behalf of
25 herself and all others similarly situated.

26 Plaintiff,

27 v.

28 JOHN HANCOCK LIFE INSURANCE
COMPANY and DOES 1 TO 50,
inclusive,

Defendants.

No. 2:20-cv-2117

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

1. **BREACH OF CONTRACTUAL
DUTY TO PAY A COVERED
CLAIM**
2. **BAD FAITH**

1 SILVINA KROETZ (“Mrs. Kroetz” or “Plaintiff”), brings this action on
2 behalf of herself and all others similarly situated, against Defendant John
3 Hancock Life Insurance Company (“John Hancock”). Plaintiff, by and
4 through her attorneys, based on her individual experiences, the investigation of
5 counsel, and information and belief, alleges as follows in support of the claims
6 herein.

7 **I. NATURE OF THE CASE**

8 1. Plaintiff has filed this class action lawsuit because Defendant John
9 Hancock knowingly and repeatedly violated California law by failing to provide
10 statutorily mandated annual notices to policyholders as required by California
11 law, and therefore, improperly lapsed and refused to pay the benefits of its life
12 insurance policies.

13 2. Under Sections 10113.71 and 10113.72 of the California Insurance
14 Code, which became effective January 1, 2013, life insurance companies such
15 as John Hancock are required to give their policyholders an opportunity to
16 designate a third party to receive notice of a potential termination of benefits
17 for non-payment of a premium (“Designation Notice Requirement”).

18 3. The public policy undergirding the Designation Notice
19 Requirements—which were publicly supported by California’s Governor,
20 Insurance Commissioner and Department of Insurance—is to provide
21 consumer safeguards from which people who have purchased life insurance
22 coverage, especially seniors, would benefit, specifically, to protect consumers
23 from losing insurance coverage due to a premium payment that is accidentally
24 missed.

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

7 5. This is not a mere hypothetical concern. When one is ill, or in the
8 final stages of life, it is not uncommon for a life insurance holder to miss a
9 premium payment as a result of their condition.

10 6. John Hancock has repeatedly and intentionally failed to adhere to
11 the Designation Notice Requirements, and then failed to honor those life
12 insurance policies by refusing to pay beneficiaries the proceeds. John
13 Hancock’s conduct has been particularly egregious as it had notice that a Court
14 in this very district and a Court in the Southern District of California have
15 enforced the Designation Notice Requirements against a life insurance
16 company in identical circumstances and awarded the benefits under the policies
17 to the beneficiaries. *See Bentley v. United of Omaha Life Insurance Co.*, 2:15-
18 CV-07870 (C.D. Cal. Feb. 21, 2019), Dkt. No. 174 at 24-25 (“Jennifer Bentley,
19 as the class representative, has successfully demonstrated that United breached
20 its contractual duty to pay life insurance benefits because: (1) United issued the
21 life insurance policy to Eric Bentley, and Jennifer Bentley is that policy’s
22 beneficiary, Jt. Stip. ¶ 15; (2) the Bentley policy was issued, delivered, or
23 renewed in California by United, *id.* ¶¶ 16–17; (3) the Bentley policy renewed
24 after the Effective Date, *id.* ¶¶ 17, 20; (4) United did not provide Eric Bentley
25 with the Offer to Designate or provide Jennifer Bentley with the Designee/30-
26 Day Notice required by the Statutes, *id.* ¶¶ 22–24; (5) the Bentley policy lapsed
27 for non-payment of premium after the Effective Date, *id.* ¶¶ 4–5, 35–36; and
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1 (6) to date, United has not paid death benefits on the Bentley policy. *Id.* ¶ 32.
2 Thus, there is no dispute of material fact that United breached its contractual
3 duty to pay Jennifer Bentley’s life insurance claim.”). *Accord Thomas v. State*
4 *Farm Insurance Company*, Case No 18-cv-00728 (S.D. Cal. Dec. 10, 2019).

5 7. More specifically, for life insurance policies originally issued prior
6 to January 1, 2013, John Hancock has terminated and refused to pay benefits
7 due to the non-payment of premiums despite failing to adhere to the
8 Designation Notice Requirements mandated by law with respect to such
9 policies.

10 8. Plaintiff is one of many beneficiaries that have been damaged by
11 John Hancock’s unlawful conduct.

12 9. John Hancock improperly terminated and refused to pay the
13 benefits of a policy it had issued to Sean Kroetz (“Mr. Kroetz”)—Mrs. Kroetz’s
14 husband—who died on October 17, 2017.

15 10. Plaintiff brings this suit as a class action to hold John Hancock
16 accountable for its violations of the law, which have severely harmed, and will
17 continue to severely harm if not stopped, numerous families such as Mrs.
18 Kroetz’s.

19 **II. JURISDICTION AND VENUE**

20 11. This action is a civil matter of which this Court has jurisdiction
21 under the provisions of 28 U.S.C. § 1332.

22 12. The Plaintiff is a citizen and domiciliary of the state of California
23 residing in Chatsworth, California.

24 13. John Hancock has its corporate headquarters in Boston,
25 Massachusetts, is incorporated in the state of Michigan, and the amount in
26 controversy well exceeds the jurisdictional minimum under 28 U.S.C. § 1332.

1 14. Venue is appropriate in this district under 28 U.S.C. § 1391
2 because a substantial part of the events giving rise to claims at issue occurred
3 in this district. Plaintiff resides in this district and the life insurance policy at
4 issue was issued in this district. John Hancock has transacted business in this
5 district including the issuance of life insurance policies and was found or had
6 agents in this district.

7 15. This Court has personal jurisdiction over John Hancock because,
8 among other facts, John Hancock: a) transacted business in this district; b)
9 issued insurance policies in this district; c) had substantial contacts with this
10 district; and/or d) was engaged in the illegal conduct alleged herein which was
11 directed at and had the intended effect of causing injury to persons residing or
12 located in this district.

13 **III. THE PARTIES**

14 16. Mrs. Kroetz is the sole beneficiary of the insurance policy issued
15 to her late-husband Sean Kroetz that was entered into in Chatsworth, California
16 and improperly terminated by John Hancock. Mrs. Kroetz is a resident of
17 Chatsworth, California.

18 17. John Hancock Life Insurance Company is an insurance company
19 licensed to conduct the business of insurance in California. John Hancock is a
20 Massachusetts corporation and is a unit of Manulife Financial Corporation, a
21 Canada-based financial services company with principal operations in Asia,
22 Canada and the United States.

23 **IV. FACTUAL ALLEGATIONS**

24 18. In 2012, Assembly Bill 1747 was enacted and created Sections
25 10113.71 and 10113.72 of the California Insurance Code (the “Statutes”).
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1 19. The Statutes went into effect on January 1, 2013 (the “Effective
2 Date”) and established, among other things, notice and designation
3 requirements for life insurance policies.

4 20. The mandates of the Statutes included the Designation Notice
5 Requirement which required insurers to give their policyholders an annual
6 opportunity to designate a third party to receive notice of a potential termination
7 of benefits for non-payment of a premium on an annual basis.

8 21. Section 10113.71 (b)(1) states: “A notice of pending lapse and
9 termination of a life insurance policy shall not be effective unless mailed by the
10 insurer to the named policy owner, a designee named pursuant to Section
11 10113.72 for an individual life insurance policy, and a known assignee or other
12 person having an interest in the individual life insurance policy, at least 30 days
13 prior to the effective date of termination if termination is for nonpayment of
14 premium.”

15 22. Section 10113.72 (b) states: “The insurer shall notify the policy
16 owner annually of the right to change the written designation or designate one
17 or more persons. The policy owner may change the designation more often if
18 he or she chooses to do so.”

19 23. John Hancock has chosen to disregard the Statutes with respect to
20 life insurance policies it issued or delivered in California prior to January 1,
21 2013.

22 24. In particular, John Hancock has disregarded the Designation
23 Notice Requirements for insurance policies it issued or delivered in California
24 prior to the Effective Date of the Statutes—January 1, 2013—even if the
25 policies were renewed after the Effective Date.

26 25. As a result of John Hancock’s disregard of the Designation
27 Requirements of the Statutes, John Hancock has improperly terminated policies
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1 and refused to pay out proceeds that are due and owing to the beneficiaries of
2 such improperly terminated policies.

3 26. The policy issued by John Hancock to Mr. Kroetz—for which
4 Plaintiff is the sole beneficiary—is one example.

5 27. On June 1, 2002, John Hancock issued a \$1,000,000 “Individual
6 Term Life Insurance” policy to Mr. Kroetz (Policy No. 075 146 326), a copy of
7 which is attached hereto as Exhibit A (the “Policy”).

8 28. Pursuant to the Policy, Mr. Kroetz was able to and had the option
9 to renew the Policy for successive one-year periods by paying the renewal
10 premium identified in the Policy until the expiration date of June 1, 2019. The
11 Policy Anniversary was each June 1st of the year.

12 29. Mr. Kroetz made his premium payments for over 15 years, some
13 after the Effective Date, and, as a result, the Policy renewed each year and
14 coverage remained in force without interruption during that time. The annual
15 premiums were \$544.00 per year.

16 30. On August 10, 2017, John Hancock purportedly sent Mr. Kroetz a
17 letter that advised that coverage under the Policy was being terminated for the
18 alleged non-payment of the premiums. There is no evidence that Mr. Kroetz
19 ever received the letter.

20 31. Mr. Kroetz died on October 17, 2017.

21 32. At no time prior to the termination did John Hancock provide Mr.
22 Kroetz with the opportunity to designate a third party to receive notification of
23 a pending termination as mandated by the Designation Notice Requirements of
24 the Statutes.

25 33. Having failed to satisfy the Designation Notice Requirement, John
26 Hancock, by extension, also failed to notify a third-party designee of Mr.
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1 Kroetz's of the pending termination in violation of the Third-Party Notice
2 Requirement of the Statutes.

3 34. After Mr. Kroetz's death, Mrs. Kroetz (the named beneficiary
4 under the Policy and Mr. Kroetz's widow) contacted John Hancock and
5 submitted a claim for benefits. John Hancock was specifically informed of the
6 rulings in Bentley and Thomas.

7 35. John Hancock denied the claim, stating that no benefits were
8 payable on the Policy.

9 36. As a result of the denial, Mrs. Kroetz has not received the proceeds
10 from the Policy, which has caused Mrs. Kroetz to suffer considerable harm in
11 an amount to be proven at the time of trial.

12 V. CLASS ACTION ALLEGATIONS

13 37. Plaintiff brings this class action on behalf of herself and all persons
14 and entities similarly situated pursuant to Rule 23 of the Federal Rules of Civil
15 Procedure. Specifically, Plaintiff brings this action on behalf of the following
16 class, which is subject to refinement based on information learned during
17 discovery:

18 "All beneficiaries who made a claim, or would have been eligible to
19 make a claim, for the payment of benefits on life insurance policies
20 renewed, issued or delivered by John Hancock Life Insurance Company
21 ("John Hancock") in the State of California that lapsed or were
22 terminated by John Hancock for the non-payment of premium after
23 January 1, 2013, and as to which policies the notice or notices as
24 described by Sections 10113.72(b) of the California Insurance Code (the
25 Designation Notice Requirement") were not sent by John Hancock prior
26 to lapse or termination." (hereinafter referred to as "Class")

1 As used in the class definition, the “notices described by Sections
2 10113.72(b) of the California Insurance Code” are:

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

8 (ii) notice to the policy owner annually of the opportunity to change
9 the written designation or designate one or more persons; and

10 (iii) notice (by first-class mail within 30 days after a premium is due
11 and unpaid, at the address provided by the policy owner for purposes of
12 receiving notice of lapse or termination) of pending lapse and termination
13 of a life insurance policy to the named policy owner, a designee named
14 for an individual life insurance policy, and a known assignee or other
15 person having an interest in the individual life insurance policy, at least
16 30 days prior to the effective date of termination if termination is for
17 nonpayment of premium.

18 38. Excluded from the Class are: a) John Hancock; b) any entity in
19 which John Hancock has a controlling interest; c) John Hancock’s officers,
20 directors, and employees; d) John Hancock’s legal representatives, successors,
21 and assigns; e) governmental entities; and f) the Court to which this case is
22 assigned.

23 39. Members of Class are so numerous and geographically dispersed,
24 throughout California and likely the United States, that joinder of all members
25 is impracticable. On information and belief, the Class is readily identifiable
26 from information and records in the John Hancock’s possession.
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1 40. Plaintiff's claims are typical of the claims of the members of the
2 Class. The Plaintiff and all members of the Class were damaged by the same
3 wrongful conduct of John Hancock, that is, *inter alia*, its failure to satisfy the
4 Designation Notice Requirement and its breach of its insurance policies through
5 its wrongful termination and non-payment of proceeds.

6 41. The Plaintiff will fairly and adequately protect and represent the
7 interests of the Class. Having suffered the same injury from the same conduct
8 of John Hancock, Plaintiff's interests are coincident with, and not antagonistic
9 to, those of the other members of the Class.

10 42. Plaintiff's counsel in this matter are experienced in the prosecution
11 of complex commercial class actions such as this one.

12 43. Questions of law and fact common to members of the Class
13 predominate over questions that may affect only individual class members
14 because, among other things, John Hancock has acted on grounds generally
15 applicable to the entire Class, thereby making damages with respect to the Class
16 as a whole appropriate. Such generally applicable conduct is inherent in John
17 Hancock's wrongful conduct.

18 44. Questions of law and fact common to the Class include, but are not
19 limited to:

- 20 • Whether the Designation Notice Requirement applied to John
21 Hancock policies issued before the Effective Date but renewed
22 after the Effective Date;
- 23 • Whether John Hancock has failed to satisfy the Designation Notice
24 Requirements;
- 25 • Whether John Hancock violated the Statutes by not satisfying the
26 Designation Notice Requirements;

- 1 • Whether John Hancock breached its life insurance policies by not
- 2 satisfying the Designation Notice Requirements;
- 3 • Whether John Hancock breached its life insurance policies by
- 4 terminating policies and not paying claims despite not satisfying
- 5 the Designation Notice Requirements;
- 6 • The quantum of damages sustained by the Class in the aggregate.

7 45. Treatment of this dispute as a class action is a superior method for
8 the fair and efficient adjudication of this matter over individual actions. Class
9 treatment will permit a large number of similarly situated persons to prosecute
10 their common claims in a single forum simultaneously, efficiently, and without
11 the unnecessary duplication of evidence, effort, or expense that numerous
12 individual actions would require. In addition, class treatment will avoid the risk
13 of inconsistency and varying adjudications.

14 46. The many benefits of proceeding through the class mechanism,
15 including providing injured persons or entities a method for obtaining redress
16 on claims that could not practicably or cost effectively be pursued individually,
17 substantially outweighs potential difficulties—which Plaintiff does not
18 anticipate—in management of this case as a class action.

19 **VI. CAUSES OF ACTION**
20 **FIRST CAUSE OF ACTION**
21 **BREACH OF CONTRACTUAL DUTY TO PAY A COVERED CLAIM**
22 **(ON BEHALF OF THE CLASS)**

23 47. Plaintiff refers to all preceding paragraphs and incorporates them
24 as though set forth in full in this cause of action.

25 48. John Hancock issued life insurance policies, which were binding
26 contracts, to the policyholders identified in the Class.
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1 49. John Hancock breached the terms of such life insurance policies—
2 including its policy with Mr. Kroetz, which Plaintiff, as beneficiary, has the
3 right to enforce—by, *inter alia*, the following acts and/or omissions:

- 4 a. Failing to timely invite the policyholders identified in the
5 Class— including Mr. Kroetz - to designate a third party to
6 receive termination notices for non-payment of a premium
7 as required by the Designation Notice Requirement of the
8 Statutes;
- 9 b. Improperly terminating and refusing to pay benefits to the
10 Class members—including Plaintiff—despite not satisfying
11 the Designation Notice Requirements of the Statutes; and
- 12 c. Failing to abide by the Statutes at all times after the
13 Effective Date.

14 50. As a direct and proximate result of John Hancock’s breaches of its
15 life insurance policies, the Class—including Plaintiff—has sustained direct
16 damages, as well as other foreseeable and incidental damages, in an amount to
17 be determined according to proof at the time of trial, plus interest.

18 **SECOND CAUSE OF ACTION**
19 **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND**
20 **FAIR DEALING IN INSURANCE POLICY**
 (ON BEHALF OF THE CLASS)

21 51. Plaintiff refers to all preceding paragraphs and incorporates them
22 as if set forth in full in this cause of action.

23 52. In every insurance policy there exists an implied duty of good faith
24 and
25 fair dealing that the insurance company will not do anything to injure the right
26 of the insured to receive the full benefit of the policy.

1 53. John Hancock breached the duty of good faith and fair dealing it
2 owed to the policy holders identified in the Class, including its policy with Mr.
3 Kroetz, which Plaintiff has the right to enforce.

4 54. John Hancock breached its duty of good faith and fair dealing and
5 engaged in bad faith by, inter alia, the following acts and/or omissions:

- 6 a. Failing to timely invite the policyholders identified in the
7 Class—including Mr. Kroetz—to designate a third party to
8 receive termination notices for non-payment of a premium
9 as required by the Designation Requirement of the Statutes;
- 10 b. Failing to properly and lawfully notify the policyholders
11 identified in the Class—including Mr. Kroetz—in writing
12 that was going to terminate their life insurance policies
13 within 30 days for non-payment of a premium as required
14 by the 30-Day Notice Requirement of the Statutes;
- 15 c. Failing to properly and lawfully notify a third-party
16 designee of the policyholders identified in the Class—
17 including Mr. Kroetz—about the impending and eventual
18 termination of the subject policies for non-payment of a
19 premium as required by the Third-Party Notice
20 Requirement of the Statutes;
- 21 d. Failing to abide by the Statutes at all times after the
22 Effective Date; and
- 23 e. Improperly terminating the respective policies and
24 unreasonably refusing, without proper cause, to pay benefits to the Class
25 members—including Plaintiff—despite not satisfying the Designation, 30 Day
26 Notice and Third-Party Notice Requirements of the Statutes.

1 55. As a direct and proximate result of John Hancock's breaches of its
2 duty of good faith and fair dealing, Plaintiff and the Class have sustained direct
3 damages, as well as other foreseeable and incidental damages, in an amount to
4 be determined according to proof at the time of trial, plus interest.

5 56. As a further direct and proximate result of the unreasonable, bad
6 faith conduct of John Hancock, Plaintiff was compelled to retain legal counsel
7 on behalf of herself and the Class to institute litigation to obtain the full and fair
8 benefit of the insurance they are beneficiaries of, making John Hancock liable
9 for those attorney fees, witness fees and litigation costs reasonably incurred in
10 order to obtain the full benefit.

11 57. John Hancock's conduct described herein was intended to cause
12 injury and/or was despicable conduct carried out with a willful and conscious
13 disregard of the rights of the Class, including Plaintiff.

14 58. Said conduct subjected Plaintiff and Class to cruel and unjust
15 hardship in conscious disregard of their rights and/or was an intentional
16 misrepresentation, deceit or concealment of material facts known to John
17 Hancock with the intent to deprive the Plaintiff and the Class of property,
18 legal rights or to otherwise cause injury.

19 59. John Hancock's conduct constitutes malice, oppression or fraud
20 under California Civil Code section 3294, and its decision to deny coverage
21 was done with full knowledge that the Courts based on the long-standing
22 Renewal Principle, had ruled that its legal position was not a justification to
23 deny payment, thereby entitling the Class, including Plaintiff, to punitive
24 damages in an amount appropriate to punish or set an example of John
25 Hancock.

1 **PRAYER FOR RELIEF**

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

- 4 A. For certification of this matter as a Class Action pursuant to
5 Federal Rule of Civil Procedure 23, and appointment of Plaintiff
6 as a Class Representative and her counsel of record as Class
7 Counsel;
- 8 B. For economic and foreseeable consequential damages, plus
9 prejudgment interest, against Defendant John Hancock for breach
10 of contract;
- 11 C. For an award of attorneys' fees and costs of suit pursuant to, *inter*
12 *alia*, the Public Benefit Doctrine and California Code of Civil
13 Procedure Section 1021.5 on the basis that private enforcement of
14 these rights is necessary, and the interests Plaintiff seeks to protect
15 significantly benefit the general public and/or pursuant to
16 California Civil Code section 3294;
- 17 D. Prejudgment and post judgment interest; and
- 18 E. All other and further relief as this Honorable court deems just and
19 proper.

20 **JURY DEMAND**

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

23 Respectfully submitted,

24 March 4, 2020

HAGENS BERMAN SOBOL SHAPIRO LLP

26 BY: /s/ Christopher Pitoun

27 Christopher Pitoun (SBN 290235)

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of herself and all others similarly situated*

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 John Hancock Failed to Send Yearly Notices in California, Caused Life Insurance Benefits to Lapse](#)
