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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.

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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,
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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—
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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;
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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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*Attorneys for JANICE SCHMIDT, on
behalf of herself and all others similarly
situated*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained hereon 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

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

HAGENS BERMAN SOBOL SHAPIRO LLP 301 North Lake Avenue, Suite 920, Pasadena, CA 91101

DEFENDANTS

STANDARD LIFE INSURANCE COMPANY, PROTECTIVE LIFE INSURANCE COMPANY, and Does 1 to 50, inclusive

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

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, 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): 28 U.S.C. § 1332. Brief description of cause: Breach of Insurance Contract and Breach of Implied Covenant and Fair Dealing re: life insurance policy

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE: Dec 17, 2021 SIGNATURE OF ATTORNEY OF RECORD: /s/ Christopher R. Pitoun

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 1:21-cv-01784-NONE-SAB Document 1-1 Filed 12/17/21 Page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Standard Life, Protective Life Violated Insurance Notice Requirements in California](#)
