

Ophir Johna (SBN 228193)
ojohna@maynardcooper.com
MAYNARD COOPER & GALE, LLP
10100 Santa Monica Boulevard
Suite 550
Los Angeles, CA 90067
Telephone: (310) 596-4500

Edward M. Holt (Application for Pro Hac Vice Forthcoming)
tholt@maynardcooper.com
MAYNARD, COOPER & GALE, P.C.
1901 Sixth Avenue North, Suite 1700
Birmingham, AL 35203
Telephone: (205) 254-1000
Facsimile: (205) 254-1999

Attorneys for Defendant
WILCO LIFE INSURANCE COMPANY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID SCHRADER, Individually, and on
behalf of all others similarly situated,

Plaintiffs,

v.

WILCO LIFE INSURANCE COMPANY, fka
CONSECO LIFE INSURANCE COMPANY,
fka MASSACHUSETTS LIFE INSURANCE
COMPANY, an Indiana corporation; and
DOES 1-20, inclusive,

Defendants.

Case No.

**WILCO INSURANCE LIFE COMPANY'S
NOTICE OF REMOVAL**

TO ALL PARTIES, THEIR ATTORNEYS OF RECORD AND THE CLERK OF THE
ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. 1332(a); 28 U.S.C. § 1332(d); and
28 U.S.C. § 1441, defendant Wilco Life Insurance Company ("Wilco") removes to the United
States District Court for the Southern District of California the state court action described below:

STATE COURT FILINGS

1. On June 17, 2022, plaintiff David Schrader, individually, and on behalf of all others similarly situated, filed an action in the Superior Court for the State of California in and for the County of San Diego, Case No.: 37-2022-00023553-CU-NP-CTL, entitled *Schrader, et al. v. Wilco Life Insurance Company, fka Conseco Life Insurance Company, fka Massachusetts General Life Insurance Company; and Does 1-20*. Plaintiff's complaint alleges that Plaintiff's mother ("Mrs. Schrader") purchased a "Flexible Premium Universal Life" insurance policy from Wilco and was issued policy number 1090403985 ("Policy"), with a value of \$200,000 on June 3, 1998. (Comp. ¶ 2). Plaintiff alleges Mrs. Schrader made an initial payment premium of \$45,687.03 to obtain the Policy and made subsequent payments on August 28, 1998 and November 17, 1998. (Comp. ¶ 4). Following Mrs. Schrader's death on October 28, 2014, Plaintiff alleges he submitted a claim to Wilco but "was informed the policy had lapsed for non-payment on July 28, 2014." (Comp. ¶ 5). Plaintiff alleges he did not receive proper notice of the Policy lapsing. (Comp. ¶ 5). Accordingly, Plaintiff asserts claims against Wilco for breach of contract; breach of the implied covenant of good faith and fair dealing; and unfair, unlawful, or fraudulent business practices. (*See generally* Comp.).

2. Wilco was served with copies of the summons and complaint on June 27, 2022. True and correct copies of the documents served on Wilco are attached as **Exhibit A**.

3. On July 26, 2022, Wilco timely filed its answer to Plaintiff's complaint. A true and correct copy of Wilco's answer is attached here as **Exhibit B**.

4. The documents set forth in **Exhibits A** and **B** constitute all the process, pleadings and orders from the state court action.

DIVERSITY JURISDICTION

A. CITIZENSHIP

5. Federal courts have jurisdiction over controversies between "citizens of different states" pursuant to 28 U.S.C. Section 1332(a)(1) and Article III, Section 2, of the United States Constitution. *Navarro Sav. Ass'n. v. Lee*, 446 U.S. 458, 460-61 (1980). The determination of citizenship for diversity purposes is governed by federal rather than state law. *See, Rockwell Int'l*

1 *Credit Corp. v. United States Aircraft Ins. Group*, 823 F.2d 302, 304 (9th Cir. 1987); overruled on
 2 other grounds, *Partington v. Gedan*, 923 F.2d 686 (9th Cir. 1991).

3 6. In determining whether diversity of citizenship exists, only the named defendants
 4 are considered. *Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690-691 (9th Cir. 1998). The
 5 citizenship of defendants sued under fictitious names, such as “Doe” defendants, is disregarded
 6 for diversity jurisdiction purposes. 28 U.S.C. § 1441(a); *Soliman v. Philip Morris, Inc.*, 311 F.3d
 7 966, 971 (9th Cir. 2002). Further, defendants not yet served at the time of removal are not
 8 considered for the unanimity of consent to removal rule. *See* 28 U.S.C. 1446(b)(2)(A); *Emrich v.*
 9 *Touche Ross & Co.*, 846 F.2d 1190, 1193 n.1 (9th Cir. 1988) (noting that the unanimity “rule
 10 applies, however, only to defendants properly joined and served in the action”)
 11 (citing *Salveson v. W. States Bankcard Ass’n*, 731 F.2d 1423, 1429 (9th Cir. 1984) (“Our circuit
 12 rule is that a party not served need not be joined; the defendants summonsed can remove by
 13 themselves.”).

14 7. For diversity purposes, a corporation may have dual citizenship (*i.e.*, “a corporation
 15 shall be deemed a citizen of any State by which it has been incorporated and of the State where it
 16 has its principal place of business.”). 28 U.S.C. § 1332(c)(1).

17 8. On information and belief, Plaintiff is a citizen of California. *See e.g.*, Complaint ¶
 18 10. Natural persons are the citizens of the state in which they are domiciled—meaning the state in
 19 which they reside with intent to remain permanently. *See Kanter v. Warner-Lambert Co.*, 265 F.3d
 20 853, 857 (9th Cir. 2001). Accordingly, Plaintiff is a citizen of California for purposes of diversity
 21 jurisdiction.

22 9. Wilco is, and at all times relevant was, a corporation organized and existing under
 23 the laws of the State of Indiana. (Compl. at ¶ 11). Wilco’s principal place of business is
 24 Connecticut. Accordingly, Wilco is a citizen of the states of Indiana and Connecticut.

25 10. Although the complaint names “DOES 1-30” as defendants in this action, the
 26 citizenship of fictitiously named defendants is disregarded for removal purposed. 28 U.S.C. §
 27 1441(b)(1); *Soliman v. Philip Morris, Inc.*, 311 F.3d 966, 971 (9th Cir. 2002).

28 **B. Removal is Timely**

11. 28 U.S. Code section 1446(b)(1) provides that a defendant has 30 days after receipt of a copy of a pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable. Here, Wilco received service of the Complaint on June 27, 2022. Accordingly, Wilco has 30 days from June 27, 2022, or by July 27, 2022, to remove this action to federal court. Wilco's notice of removal is, therefore, timely.

C. Amount in Controversy is satisfied under Section 1332

12. This Court also has jurisdiction over this action under 28 U.S.C. section 1332 because the amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiff demands, among other damages, the proceeds of the subject policy (\$200,000). (Comp. ¶¶ 2, 27, 42, 46, and 47). As a result, Plaintiff's claims exceed \$75,000.

13. Thus, this action may be removed to this Court by Wilco pursuant to 28 U.S.C. sections 1332, 1441 and 1446 because the amount in controversy exceeds \$75,000 and there is complete diversity between Plaintiff and Wilco.

WHEREFORE, Wilco gives notice that the above-described action, now pending in the Superior Court for the State of California, County of San Diego, has been removed therefrom to this Court on the ground of diversity of citizenship. A copy of this Notice of Removal shall be contemporaneously filed in the office of the clerk for the Superior Court of San Diego County.

Dated: July 27, 2022

MAYNARD COOPER & GALE, LLP

By: /s/ Ophir Johna
OPHIR JOHNA

Attorney for Defendant
WILCO LIFE INSURANCE COMPANY

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

David Schrader

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

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

Annette C. Clark (SBN 208216)

Ryan J. Carlson (SBN 308270)

CALLAHAN, THOMPSON, SHERMAN & CAUDILL, LLP

DEFENDANTS

Wilco Life Insurance Company

'22CV1104 LL MDD

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)

Ophir Johna, MAYNARD COOPER & GALE, LLP

10100 Santa Monica Blvd., Suite 550, Los Angeles, CA

90067: Tel: 310-596-4500

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

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 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)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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):
8 U.S.C. 1332(a); 28 U.S.C. § 1332(d); and 28 U.S.C. § 1441Brief 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 \$
in excess of \$200,000.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

7/27/2022

SIGNATURE OF ATTORNEY OF RECORD

/s/ Ophir Johna

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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.

EXHIBIT A

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)**ELECTRONICALLY FILED**Superior Court of California,
County of San Diego

06/17/2022 at 02:26:58 PM

Clerk of the Superior Court
By Nora Lopez, Deputy Clerk**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

(See attached)

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**DAVID SCHRADER, Individually, and on behalf of all others similarly
situated**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

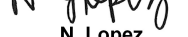
Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Diego Superior Court
330 W. Broadway, San Diego, CA 92101

CASE NUMBER:
(Número del Caso): 37-2022-00023553-CU-NP-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Annette C. Clark, Esq., CTSC, 350 Tenth Avenue, Suite 1000, San Diego, CA 92101 (619) 232-5700

DATE: 06/20/2022
(Fecha)

Clerk, by 
(Secretario) N. Lopez, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

Page 1 of 1

Annette C. Clark (Bar No. 208216)
aclark@ctsclaw.com

Ryan J. Carlson (Bar No. 308270)
rcarlson@ctsclaw.com

CALLAHAN, THOMPSON, SHERMAN & CAUDILL, LLP
 350 Tenth Avenue, Suite 1000
 San Diego, California 92101
 Tel: (619) 232-5700
 Fax: (949) 261-6060

ELECTRONICALLY FILED
 Superior Court of California,
 County of San Diego

06/17/2022 at 02:26:58 PM

Clerk of the Superior Court
 By Nora Lopez, Deputy Clerk

Attorneys for Plaintiff,
**DAVID SCHRADER, Individually, and
 on behalf of all others similarly situated**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SAN DIEGO - HALL OF JUSTICE**

DAVID SCHRADER, Individually, and on
 behalf of all others similarly situated,

Plaintiffs,

vs.

WILCO LIFE INSURANCE COMPANY, fka
 CONSECO LIFE INSURANCE COMPANY,
 fka MASSACHUSETTS GENERAL LIFE
 INSURANCE COMPANY, an Indiana
 corporation; and DOES 1-20, inclusive,

Defendants.

Case No.: 37-2022-00023553-CU-NP-CTL

**CLASS ACTION COMPLAINT FOR
 DAMAGES, INJUNCTIVE RELIEF AND
 RESTITUTION**

- 1. Breach of Contract**
- 2. Breach of the Implied Covenant of Good Faith and Fair Dealing; and**
- 3. Unfair Competition (Bus. & Prof. Code §17200)**

DEMAND FOR TRIAL BY JURY

NATURE OF THE ACTION

1. Plaintiff, DAVID SCHRADER, (collectively “Plaintiffs”) brings this class action pursuant to section 382 of the Code of Civil Procedure (“CCP”), on behalf of himself and all similarly situated beneficiaries (“Class”) of life insurance policies issued by WILCO LIFE INSURANCE COMPANY, CONSECO LIFE INSURANCE COMPANY OR MASSACHUSETTS GENERAL LIFE INSURANCE POLICY (“Class”) and DOES 1-20, inclusive.

2. Plaintiff’s mother, Jean Schrader, purchased a “Flexible Premium Universal Life” insurance policy from WILCO and was issued policy number 1090403985, (“Policy”) with a face value of \$200,000 on June 3, 1998.

3. Mrs. Schrader made an initial premium payment of \$45,687.03 to obtain the policy, and thereafter, made payments of \$31,829.13 on August 28, 1998, and a payment of \$4,168.99 on November 17, 1998.

4. The beneficiary under the Policy was the Jean D. Schrader Insurance Trust, dated April 7, 1981. Plaintiff was the Trustee of the trust.

5. Beginning in late 2013 and into 2014, Mrs. Schrader's health began to deteriorate, and she died on October 28, 2014. Plaintiff submitted a claim to WILCO but was informed that the policy had lapsed for non-payment on July 28, 2014 – three months before Mrs. Schrader's death. Plaintiff, as the Trustee for the beneficiary of the policy, did not receive notice that the policy would lapse if payment was not received.

6. As explained in greater detail below, it is alleged herein that Defendants have refused to issue life insurance policy proceeds to beneficiaries on the basis that the policies canceled for non-payment. It is further alleged that, before canceling the policies for non-payment, Defendants failed to provide proper notice of the pending cancellation, as required pursuant to Ins. Code §10113.71. Defendants also failed to notify Class Members annually of their right to designate a person to receive notice under the policy, as required pursuant to Ins. Code §10113.72. Defendants have continued to withhold life insurance policy proceeds which they know, or should know, are owed to the Class.

7. By way of this action, Plaintiff seeks to represent the following class:

All persons who were entitled to receive proceeds, under life insurance policies issued by WILCO, and whose claims for proceeds were denied on the basis that the policy had canceled for non-payment when WILCO failed, least 30 days prior to the effective date of the policy cancellation, to mail a notice of the pending cancellation for non-payment to a designee named pursuant to Insurance Code Section §10113.71, and a known assignee or other person having an interest in the individual life insurance policy.

8. The "Class Period" is defined as the period of time between January 13, 2013 to the present.

9. Plaintiffs seek to recover restitution, interest, costs of suit and attorney's fees, injunctive relief, punitive damages - and to obtain any and all other legal and/or equitable relief as this Court may deem just, as a result of Defendants' unlawful actions as described more fully below.

PARTIES & JURISDICTION

10. Plaintiff DAVID SCHRADER is, and at all times relevant hereto was, a resident of the County of Santa Clara, in the State of California.

11. Defendant, WILCO LIFE INSURANCE COMPANY, is a corporation domiciled in the State of Indiana. WILCO previously did business as Conseco Life Insurance Company and Massachusetts General Life Insurance Company, but through a series of mergers and acquisitions now does business as WILCO.

12. WILCO is licensed in the State of California and registered with the Department of Insurance to sell insurance, including life insurance. On information and belief, WILCO sells and issues life insurance policies nationwide.

13. Plaintiff does not know the true names and capacities, whether individual, corporate, associate, or otherwise of defendant DOES 1 through 20, inclusive. Such fictitious defendants are sued pursuant to the provisions of CCP §474. Plaintiff is informed and believes, and based upon such information and belief alleges, that each fictitious defendant was in some way responsible for, participated in, or contributed to the matter and things of which Plaintiff complains herein, and in some form and under some theory, is or are subject to liability therefor. When the exact nature and identity of such fictitious defendants is determined, Plaintiffs will seek leave to amend this Complaint to set forth same.

14. Mrs. Schrader was a resident of California and purchased the Policy in Santa Clara County, in the State of California. Wilco conducts business in the County of Santa Clara, in the State of California. As such, this Court has jurisdiction over this action pursuant to Code of Civil Procedure (“CCP”) §410.10, and venue is proper in the Superior Court of California, for the County of Santa Clara, pursuant to CCP §395.5.

INSURANCE CODE SECTIONS 10113.71 AND 10113.72

15. In 2012, the Legislature enacted Assembly Bill No. 1747, which added Sections 10113.71 and 10113.72 to the Insurance Code, to become effective January 1, 2013:

Ins. Code §10113.71:

(a) Each life insurance policy issued or delivered in this state shall contain a provision for a grace period of not less than 60 days from

the premium due date. The 60-day grace period shall not run concurrently with the period of paid coverage. The provision shall provide that the policy shall remain in force during the grace period.

(b)(1) A notice of pending lapse and termination of a life 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.

(2) This subdivision shall not apply to nonrenewal.

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

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

Ins. Code §10113.72:

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

(b) The insurer shall notify the policy owner annually of the right to change the written designation or designate one or more persons. The policy owner may change the designation more 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.

16. The following notes, about the purpose of §10113.71 and §10113.72 are contained in the Legislative history:

“The bill provides consumer safeguards from which *people who have purchased life insurance coverage, especially seniors, would benefit*. Under existing law, individuals can easily lose the critical protection of life insurance if a single premium is accidentally missed (even if

they have been paying premiums on time for many years). If an insured individual loses coverage and wants it reinstated, he or she may have to undergo a new physical exam and be underwritten again, risking a significantly more expensive, possibly unaffordable premium if his or her health has changed in the years since purchasing the policy. Therefore, the protections provided by [Assembly Bill No.] 174 7 are intended to make sure that policy owners have sufficient warning that their premium may lapse due to nonpayment."

17. The Policy was issued before §10113.71 and §10113.72 were enacted. When Plaintiff inquired about the cancellation, given the huge premiums paid by his mother, WILCO stated that the policy had been properly canceled, though Mrs. Schrader had not been given the opportunity to designate someone to receive notices of cancellation; and he, as a beneficiary and Trustee, had not received mailed notice, at least 30 days in advance of the policy cancellation, for non-payment.

McHugh v. Protective Life Ins. Co., (2021) 12 Cal.5th 213

18. On August 12, 2021, the Supreme Court of California decided *McHugh*, which dealt with the exact same facts plead by Plaintiff in this matter. Plaintiff McHugh purchased a policy in 2005 and faithfully paid annual premiums for 17 years - through January of 2012. Protective Life sent McHugh two notices that his policy would terminate if payment was not received - and canceled his policy on February 9, 2013. Mr. McHugh had been ill and did not see the notices. He died in June of 2013 and Protective Life denied the claim of his beneficiaries on the basis that his policy had lapsed for non-payment.

19. McHugh's beneficiaries sued Protective Life since he was not provided the opportunity to designate someone to receive notice of potential policy cancellation due to non-payment, as required pursuant to §10113.72; and because Protective Life did not provide notice as required under §10113.71. The California Supreme Court held that §10113.71 and 10113.72 applied to all policies issued before those sections of the Insurance Code were enacted. Consequently, once protections for policyholders were imposed, via enactment of §10113.71 and 10113.72, Protective Life was required to allow McHugh to designate a person to receive notice of cancellation. Additionally, before canceling his policy for non-payment, the insurer was required to notify "a designee named pursuant to Section 10113.72 for an individual life insurance policy, and a known

1 assignee or other person having an interest in the individual life insurance policy, at least 30 days
2 prior to the effective date of termination, if termination is for nonpayment of premium.”

3 20. Since *McHugh* was decided, it has been cited with approval by the Ninth Circuit
4 Court of Appeals (*Thomas v. State Farm Life Insurance Company*, 2021 WL4596286) and the
5 Central District of California (*Kelley v. Colonial Penn Life Ins. Company*, 2022 WL341135). Our
6 Supreme Court decided in *McHugh* that §10113.71 and 10113.72 applied to policies issued before
7 January 1, 2013. It further decided that non-payment cancellations, which did not comply with the
8 subject statutes, were invalidly canceled.

9 21. Despite these rulings and the state of the law in California, WILCO has failed and
10 refused to pay life insurance proceeds of invalidly canceled policies to the Plaintiff and the putative
11 class.

12 22. Plaintiff and the putative class were unaware that any WILCO was obligated to
13 follow the notice procedures outlined in §10113.71 and §10113.72 for policies issued before January
14 1, 2013, until the *McHugh* case was decided. Only then were Plaintiff and the putative class put on
15 notice of their rights under the policy and the fact that WILCO should have paid them policy
16 proceeds for WILCO policies which were canceled without providing the required notice pursuant
17 to §10113.71.

18 **FIRST CAUSE OF ACTION**

19 **Breach of Contract**

20 23. Plaintiffs reallege and incorporate by reference each and every paragraph set forth in
21 this pleading as if the same were fully set forth herein.

22 24. The insureds who purchased life insurance policies (“Subject Policies”) from
23 Defendants, named Plaintiff and the putative class as beneficiaries of the policy proceeds.

24 25. Plaintiff and the putative class are, therefore, third-party beneficiaries under the
25 Subject Policies.

26 26. Defendants canceled the Subject Policies for non-payment without complying with
27 §10113.71 and §10113.72.

28 ///

27. Because Defendants did not comply with §10113.71 and §10113.72 before canceling the Subject Policies for non-payment, the policy cancellations were invalid, entitling Plaintiff and the putative class to the life insurance proceeds available under the Subject Policies.

28. Plaintiff and the putative class suffered a loss when Defendants canceled the Subject Policies without first complying with §10113.71 and §10113.72.

29. Because Defendants failed to comply with §10113.71 and §10113.72, Plaintiff and the putative Class are entitled to the proceeds available under the Subject Policies.

30. Plaintiffs notified Defendants of the loss in accordance with all of Defendants requirements for the presentation of a claim for coverage, but Defendants have refused to pay.

31. Through its conduct, actions and/or omissions alleged hereinabove, including knowing the state of the law for life insurance policy cancellations, after *McHugh*, but failing or refusing to pay the policy proceeds to the Plaintiff and putative class, Defendants breached the contract.

32. As a direct and proximate result of Defendants' breach(es), as explained hereinabove, Plaintiff and the putative class have been damaged, and continue to be damaged, in an amount to be determined according to proof at trial, but which amount exceeds the jurisdictional minimum of this Court.

SECOND CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing

33. Plaintiff and the putative class reallege and incorporate by reference each and every paragraph set forth in this pleading as if the same were fully set forth herein.

34. At all times relevant hereto, Defendants were and are insurance carriers who issued the Subject Policies in the State of California.

35. Plaintiff and the putative class were third-party beneficiaries under the Subject Policies.

36. When Defendants issued the Subject Policies, they became obligated to carry out their duties under the Policy in accordance and consistent with the covenant of good faith and fair dealing that is implied within every contract.

37. As Insurers in the State of California, Defendants are required to adhere to the California Insurance Code, California Fair Claims Settlement Practices Regulations (10 CCR §2695.1, *et seq.*) and California's Unfair Settlement Practices Act (Ins. Code §790.03, *et seq.*).

38. Defendants violated Ins. Code §10113.71 and §10113.72, by failing to inform Plaintiff and the putative class that they could designate a person to receive notice of a pending cancellation.

39. Defendants violated Ins. Code §10113.71 and §10113.72, by failing to provide notice that the Subject Policies were due to be canceled for non-payment to 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.

40. Defendants violated 10 C.C.R. §2695.7(h) by failing to promptly pay life insurance proceeds to the Plaintiff and the putative class, after learning that *McHugh* mandated that proceeds under the Subject Policies be paid.

41. Defendants violated Ins. Code §790.03(h)(5) by not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

42. Defendants have withheld life insurance proceeds which they know must be paid to the Plaintiff and putative class since Defendants failed to comply with §10113.71 and §10113.72.

43. By knowingly and wrongfully withholding life insurance proceeds which are owed to Plaintiff and the putative class, Defendants have breached their implied covenant of good faith and fair dealing.

44. The California Supreme Court in *McHugh*, and other courts, have held that the Subject Policies were improperly canceled. Despite this knowledge, Defendants have failed and refused to pay Plaintiff, and the putative class, the owed life insurance benefits which is unreasonable and egregious.

45. By engaging in the conduct described herein, Defendants failed to give equal consideration to the interests of Plaintiff and the putative class and, instead, put Defendants' own interests and profits first.

46. As a result of the aforementioned breaches of the implied covenant of good faith and fair dealing and Defendants' refusal to pay Plaintiff and the putative class what they are owed – Plaintiff and the putative class have been, and continue to be damaged, in an amount to be determined according to proof at trial, but which amount exceeds the jurisdictional minimum of this Court.

47. Defendants' failure to pay the proceeds due under the Subject Policies, to the Plaintiff and putative class - who are vulnerable and not trained to understand insurance law - was malicious, and oppressive. Defendants' failure to inform Plaintiff and the putative class that the law had changed, entitling them to the policy proceeds was fraudulent. Therefore, Plaintiffs and the putative class are entitled to punitive damages.

THIRD CAUSE OF ACTION

Unfair, Unlawful or Fraudulent Business Practices

(Bus & Prof. Code §17200, et. seq.)

48. Plaintiff and the putative class hereby incorporate all prior paragraphs of this Complaint as if fully set forth and referenced herein.

49. Defendants' conduct, acts, omissions, behavior and/or practices as alleged hereinabove, including but not limited to: violating Ins. Code §10113.71 and §10113.72; 10 C.C.R. §2695.7(h) and Ins. Code §790.03(h)(5); failing to notify Plaintiff and the putative class that they were entitled to life insurance proceeds under the Subject Policies after the ruling in *McHugh*; and failing to pay those proceeds all constitute unlawful, unfair and or fraudulent business practices in violation of California Bus. & Prof. Code §17200, et. seq.

50. As a result of Defendants' conduct, Plaintiff and the putative class have suffered economic injury.

51. As a result of their unlawful, unfair and/or fraudulent business practices Defendants have realized and continue to realize the unlawful monetary gains and unfair benefits accrued at the expense of Plaintiff and the putative class.

52. Defendants should not be allowed to continue profiting from their unlawful, unfair and/or fraudulent business practices. Defendants should be made to disgorge all unlawful gains and

1 restore to Plaintiff and the putative class, all proceeds due under the Subject Policies, (minus
2 additional premium payments owed); plus interest thereon, and such other financial remedies as are
3 available to Plaintiff and the putative class in an amount according to proof at trial.

4 53. Defendants have been/are continuing to be unjustly enriched through their wrongful
5 conduct as alleged herein.

6 54. Defendants have violated Business & Profession Code §17200's proscription against
7 unfair, unlawful and/or fraudulent business practices. Plaintiff and the putative class are, therefore,
8 entitled to the relief prayed for herein, including, but not limited to, restitution.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiff, on behalf of himself and the putative class, hereby prays for:

- 11 1. Actual damages and interest thereon, in an amount to be determined according to
- 12 proof at trial;
- 13 2. Punitive damages in an amount to be determined according to proof at trial;
- 14 3. Disgorgement of profits resulting from Defendants' unfair, unlawful and fraudulent
- 15 business practices;
- 16 4. Punitive damages in an amount to be determined according to proof at trial;
- 17 5. Attorney's fees and costs; and
- 18 6. Any other legal and equitable relief the Court may deem just and proper.

19
20 DATED: June 17, 2022

**CALLAHAN, THOMPSON, SHERMAN &
CAUDILL, LLP**

21
22 By: 

23 Annette C. Clark
24 Ryan J. Carlson
25 Attorneys for Plaintiff,
26 **DAVID SCHRADER, Individually, and**
27 **on behalf of all others similarly situated**

28 ///

///

DEMAND FOR JURY TRIAL

Plaintiff DAVID SCHRADER, on behalf of himself and the class of individuals he seeks to represent by way of this action, hereby demands a trial by jury.

DATED: June 17, 2022

**CALLAHAN, THOMPSON, SHERMAN &
CAUDILL, LLP**

By:



Annette C. Clark
Ryan J. Carlson
Attorneys for Plaintiff,
**DAVID SCHRADER, Individually, and
on behalf of all others similarly situated**

G:\PLF\0220001\Pleadings\Schrader Class Action Complaint (final).docx

CTSClaw
CALLAHAN THOMPSON SHERMAN & CAUDILL LLP

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Annette C. Clark, Esq. (SBN 208216) Ryan J. Carlson, Esq. (SBN 308270) Callahan, Thompson, Sherman & Caudill, LLP 350 Tenth Avenue, Suite 1000, San Diego, CA 92101		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 06/17/2022 at 02:26:56 PM Clerk of the Superior Court By Nora Lopez, Deputy Clerk						
TELEPHONE NO.: 619-232-5700 FAX NO. (Optional): 949-261-6060 ATTORNEY FOR (Name): Plaintiff, David Schrader, et al.								
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice								
CASE NAME: David Schrader, etc. v. Wilco Life Insurance Company, et al.								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">CIVIL CASE COVER SHEET</td> <td style="text-align: center;">Complex Case Designation</td> </tr> <tr> <td style="width: 33%; padding: 5px;"> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) </td> <td style="width: 33%; padding: 5px;"> <input type="checkbox"/> Limited (Amount demanded is \$25,000) </td> <td style="width: 34%; padding: 5px;"> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) </td> </tr> </table>		CIVIL CASE COVER SHEET		Complex Case Designation	<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000)	<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 37-2022-00023553-CU-NP-CTL JUDGE: Judge Carolyn Caietti DEPT.:
CIVIL CASE COVER SHEET		Complex Case Designation						
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000)	<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)						

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input checked="" type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|---|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Three - Breach of Contract; Breach of Implied Covenant of Good Faith & Fair Dealing, etc.
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 17, 2022

Annette C. Clark



(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUM-200(A)

SHORT TITLE: David Schrader, etc. v. Wilco Life Insurance Company, et al.	CASE NUMBER:
--	--------------

INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

WILCO LIFE INSURANCE COMPANY, fka CONSECO LIFE INSURANCE COMPANY, fka
 MASSACHUSETTS GENERAL LIFE INSURANCE COMPANY, an Indiana corporation; and
 DOES 1-20, inclusive

Page ____ of ____

Page 1 of 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
DIVISION: Central	
TELEPHONE NUMBER: (619) 450-7070	
PLAINTIFF(S) / PETITIONER(S): David Schrader	
DEFENDANT(S) / RESPONDENT(S): Wilco Life Insurance Company	
DAVID SCHRADER VS WILCO LIFE INSURANCE COMPANY [IMAGED]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE (CIVIL)	CASE NUMBER: 37-2022-00023553-CU-NP-CTL

CASE ASSIGNED FOR ALL PURPOSES TO:

Judge: Carolyn Caietti

Department: C-70

COMPLAINT/PETITION FILED: 06/17/2022

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	12/02/2022	09:30 am	C-70	Carolyn Caietti

Due to the COVID-19 pandemic, all Case Management Conferences (CMCs) are being conducted virtually unless there is a court order stating otherwise. Prior to the hearing date, visit the "virtual hearings" page for the most current instructions on how to appear for the applicable case-type/department on the court's website at www.sdcourt.ca.gov.

A Case Management Statement (JC Form #CM-110) must be completed by counsel for all parties and by all self-represented litigants and timely filed with the court at least 15 days prior to the initial CMC. (San Diego Superior Court (SDSC) Local Rules, rule 2.1.9; Cal. Rules of Court, rule 3.725).

All counsel of record and self-represented litigants must appear at the CMC, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of Alternative Dispute Resolution (ADR) options.

It is the duty of each plaintiff (and cross-complainant) to serve a copy of this Notice of Case Assignment and Case Management Conference (SDSC Form #CIV-721) with the complaint (and cross-complaint), the Alternative Dispute Resolution (ADR) Information Form (SDSC Form # CIV-730), a Stipulation to Use Alternative Dispute Resolution (ADR) (SDSC Form # CIV-359), and other documents on all parties to the action as set out in SDSC Local Rules, rule 2.1.5.

TIME FOR SERVICE AND RESPONSE: The following rules apply to civil cases except for collections cases under California Rules of Court, rule 3.740(a), unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law (Cal. Rules of Court, rule 3.110; SDSC Local Rules, rule 2.1.5):

- **Service:** The complaint must be served on all named defendants, and proof of service filed with the court within 60 days after filing the complaint. An amended complaint adding a defendant must be served on the added defendant and proof of service filed within 30 days after filing of the amended complaint. A cross-complaint against a party who has appeared in the action must be accompanied by proof of service on that party at the time it is filed. If it adds a new party, the cross-complaint must be served on all parties and proof of service on the new party must be filed within 30 days of the filing of the cross-complaint.
- **Defendant's appearance:** Unless a special appearance is made, each defendant served must generally appear (as defined in Code of Civ. Proc. § 1014) within 30 days of service of the complaint/cross-complaint.
- **Extensions:** The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint (SDSC Local Rules, rule 2.1.6). If a party fails to serve and file pleadings as required under this rule, and has not obtained an order extending time to serve its pleadings, the court may issue an order to show cause why sanctions shall not be imposed.

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

COURT REPORTERS: Official Court Reporters are not normally available in civil matters, but may be requested in certain situations no later than 10 days before the hearing date. See SDSC Local Rules, rule 1.2.3 and Policy Regarding Normal Availability and Unavailability of Official Court Reporters (SDSC Form #ADM-317) for further information.

ALTERNATIVE DISPUTE RESOLUTION (ADR): The court discourages any unnecessary delay in civil actions; therefore, continuances are discouraged and timely resolution of all actions, including submitting to any form of ADR is encouraged. The court encourages and expects the parties to consider using ADR options prior to the CMC. The use of ADR will be discussed at the CMC. Prior to the CMC, parties stipulating to the ADR process may file the Stipulation to Use Alternative Dispute Resolution (SDSC Form #CIV-359).

NOTICE OF E-FILING REQUIREMENTS AND IMAGED DOCUMENTS

Effective April 15, 2021, e-filing is required for attorneys in represented cases in all limited and unlimited civil cases, pursuant to the San Diego Superior Court General Order: In Re Procedures Regarding Electronically Imaged Court Records, Electronic Filing and Access to Electronic Court Records in Civil and Probate Cases. Additionally, you are encouraged to review CIV-409 for a listing of documents that are not eligible for e-filing. E-filing is also encouraged, but not mandated, for self-represented litigants, unless otherwise ordered by the court. All e-filers are required to comply with the e-filing requirements set forth in Electronic Filing Requirements (Civil) (SDSC Form #CIV-409) and Cal. Rules of Court, rules 2.250-2.261.

All Civil cases are assigned to departments that are part of the court's "Imaging Program." This means that original documents filed with the court will be imaged, held for 30 days, and then destroyed, with the exception of those original documents the court is statutorily required to maintain. The electronic copy of the filed document(s) will be the official court record, pursuant to Government Code § 68150. Thus, original documents should not be attached to pleadings filed with the San Diego Superior Court, unless it is a document for which the law requires an original be filed. Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant, or petitioner to serve a copy of this Notice of Case Assignment and Case Management Conference (Civil) (SDSC Form #CIV-721) with the complaint, cross-complaint, or petition on all parties to the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words "IMAGED FILE" in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and may be found on the court's website at www.sdcourt.ca.gov.

EXHIBIT B

Ophir Johna (SBN 228193)
 ojohna@maynardcooper.com
 MAYNARD COOPER & GALE, LLP
 10100 Santa Monica Boulevard
 Suite 550
 Los Angeles, CA 90067
 Telephone: (310) 596-4500

Edward M. Holt (Application for Pro Hac Vice Forthcoming)
 tholt@maynardcooper.com
 MAYNARD, COOPER & GALE, P.C.
 1901 Sixth Avenue North, Suite 1700
 Birmingham, AL 35203
 Telephone: (205) 254-1000
 Facsimile: (205) 254-1999

Attorneys for Defendant
 WILCO LIFE INSURANCE COMPANY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO – HALL OF JUSTICE

DAVID SCHRADER, Individually, and on
 behalf of all others similarly situated,

Plaintiff,

v.

WILCO LIFE INSURANCE COMPANY, fka
 CONSECO LIFE INSURANCE COMPANY,
 fka MASSACHUSETTS LIFE INSURANCE
 COMPANY, an Indiana corporation; and DOES
 1-20, inclusive,

Defendants.

Case No. 37-2022-00023553-CU-NP-CTL

**DEFENDANT WILCO LIFE INSURANCE
 COMPANY'S ANSWER TO COMPLAINT**

Complaint filed June 17, 2022

Maynard Cooper & Gale LLP
 Two Embarcadero Center, Suite 1450
 San Francisco, CA 94111
 415.704.7433

1 Defendant Wilco Life Insurance Company (“Defendant”), by and through its undersigned
2 counsel, hereby answers the Complaint of David Schrader (“Plaintiff”) as follows:

3 **GENERAL DENIAL**

4 Pursuant to Sections 431.10, *et seq.*, of the California Code of Civil Procedure, Defendant
5 denies, both generally and specifically, every, all and singular, conjunctively and disjunctively,
6 allegations of the above-referenced Complaint and every part thereof, and every cause of action
7 thereof, and further specifically denies that Plaintiff has been injured or damaged in the sum
8 alleged, or in any other sum, or at all, by reason of any carelessness, negligence, act, or omission
9 of Defendant.

10 **AFFIRMATIVE DEFENSES**

11 Without assuming the burden of proof on any matters that would otherwise rest with
12 Plaintiff, and expressly denying all wrongdoing, Defendant alleges the following affirmative
13 defenses. By setting forth these defenses, Defendant does not assume the burden of proving any
14 fact, issue, or element of a cause of action where such burden properly belongs to Plaintiff and
15 those persons Plaintiff purports to represent. Moreover, nothing stated herein is intended or shall
16 be construed as an admission that any particular issue or subject matter is relevant to Plaintiff’s
17 allegations.

18 1. The Class Action Complaint, and each purported claim therein, fail to state a claim
19 against Defendant on which relief can be granted.

20 2. Defendant denies the material allegations of the Class Action Complaint and
21 demands strict proof thereof.

22 3. The so-called “renewal principle” discussed in *Thomas v. State Farm Insurance*
23 *Co.*, 424 F. Supp. 3d 1018 (S.D. Cal. 2019) (Bashant, J.), and *Bentley v. United of Omaha Life*
24 *Insurance Co.*, 371 F. Supp. 3d 723 (C.D. Cal. 2019) (Gee, J.), and does not apply to the policies
25 at issue here.

26 4. California Insurance Code §§ 10113.71 and 10113.72 do not create a private right
27 of action for recovery against an insurer like Defendant.

28 5. Plaintiff’s claims, and those of some or all of the other persons Plaintiff purports to

1 represent, are barred by the provisions, terms, exclusions, definitions, limitations, and conditions
2 of the policies at issue.

3 6. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
4 represent, are barred because Defendant has fully and/or substantially performed all contractual,
5 statutory, and other duties that may have been owed to Plaintiff and the members of the putative
6 class.

7 7. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
8 represent, are barred by the failure to satisfy necessary conditions precedent.

9 8. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
10 represent, are barred because they are based on alleged breach of obligations not found in the
11 Policy at issue, which are fully integrated agreements.

12 9. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
13 represent, are barred or limited because Defendant complied with all applicable laws, statutes, and
14 regulations at all pertinent times.

15 10. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
16 represent, are barred or limited because Defendant acted reasonably, appropriately, and in good
17 faith at all pertinent times.

18 11. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
19 represent, are barred because Defendant did not engage in any unfair, unlawful, fraudulent, or
20 wrongful conduct.

21 12. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
22 represent, are barred because Defendant did not willfully or intentionally engage in any unfair,
23 unlawful, fraudulent, or wrongful conduct.

24 13. Plaintiff, and some or all of the other persons Plaintiff purports to represent, lack
25 standing to assert a claim under California Business and Professions Code §§ 17200 *et seq.*

26 14. The acts and omissions of Defendant, if any, were excused or justified by the
27 information and facts available to Defendant at the time such acts and omissions, if any, occurred.

28 15. Plaintiff, and some or all of the other persons Plaintiff purports to represent, have

1 sustained no injury in fact or damages caused by Defendant or the conduct alleged in the Class
2 Action Complaint.

3 16. Plaintiff, and some or all of the other persons Plaintiff purports to represent, have
4 failed and neglected to use reasonable care to protect themselves and minimize the alleged loss
5 and damage complained of, if there was any.

6 17. If Plaintiff, and all or some of those Plaintiff purports to represent, have suffered
7 any injury or harm—which Defendant expressly denies—recovery is barred by the failure of
8 Plaintiff, and some or all of those Plaintiff purports to represent, to mitigate, reduce, or otherwise
9 avoid damages or injuries.

10 18. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports
11 to represent, are barred, in whole or in part, because no act or omission by Defendant, or by any
12 person or entity for which Defendant was responsible, was the proximate cause of any injury or
13 harm alleged.

14 19. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
15 represent, are barred due to the acts or omissions of third parties who are unrelated to Defendant.

16 20. To the extent California Insurance Code §§ 10113.71 and 10113.72 apply with
17 respect to the policies at issue in this action, and benefits are to be paid thereunder even though
18 the policies had lapsed, Defendant is entitled to an offset for any premiums that would have been
19 due and owing between the date of the last paid premium and the death of the insured(s).

20 21. Plaintiff, and some or all of the other persons Plaintiff purports to represent, cannot
21 prove or otherwise satisfy any of the factors listed for treble damages in California Civil Code
22 § 3345.

23 22. Plaintiff, and some or all of the other persons Plaintiff purports to represent, fail to
24 state a claim for punitive, exemplary, and/or treble damages against Defendant.

25 23. Any demand for punitive or exemplary damages in the Class Action Complaint is
26 barred by the Due Process Clauses of the United States Constitution and/or the California
27 Constitution. U.S. Const., amend. XIV; Cal. Const. Art. I, § 7.

28 24. Any demand for punitive or exemplary damages in the Class Action Complaint is

1 barred by the Equal Protection Clauses of the United States Constitution and/or the California
2 Constitution. U.S. Const., amend. XIV; Cal. Const. Art. I, § 7.

3 25. Any demand for punitive or exemplary damages in the Class Action Complaint is
4 barred by the Contracts Clauses of the United States Constitution and/or the California
5 Constitution. U.S. Const., Art. I, § 10, cl. 1; Cal. Const. Art. I, § 9.

6 26. Any demand for punitive or exemplary damages in the Class Action Complaint is
7 barred by the Excessive Fines provisions of the United States Constitution and/or the California
8 Constitution. U.S. Const., amend. XIII; Cal. Const. Art. I, § 17.

9 27. Any demand for punitive or exemplary damages in the Class Action Complaint
10 does not meet the tests for set forth by the United States Supreme Court in *BMW of North America,*
11 *Inc. v. Gore*, 517 U.S. 559 (1996), *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538
12 U.S. 408 (2003), *Philip Morris USA v. Williams*, 549 U.S. 346 (2007), and other cases, and
13 therefore fails to state a cause of action supporting any punitive or exemplary damages claimed.

14 28. Plaintiff, and some or all of the other persons Plaintiff purports to represent, have
15 expressly and/or by conduct waived the right to complain of the conduct alleged in the Class Action
16 Complaint and are estopped from pursuing these claims.

17 29. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
18 represent, are barred by the doctrine of unjust enrichment.

19 30. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports to
20 represent, are barred by the doctrine of unclean hands in that the actions of Plaintiff, and some or
21 all of the other persons Plaintiff purports to represent, have caused some or all of the alleged harm
22 incurred, if any.

23 31. The claims for relief asserted in the Class Action Complaint are barred, in whole
24 or in part, by the applicable statutes of limitations, laches, and/or other time bars.

25 32. This action is not proper for class certification under California Civil Code § 382
26 because Plaintiff cannot satisfy the requirements set forth in California Civil Code § 382.

27 33. The Class Action Complaint fails to adequately define any class of persons who
28 could properly maintain this action as a class action.

1 34. This action is not proper for class certification under California Civil Code § 382
2 because there is no question of common interest.

3 35. Plaintiff's claims, and those of some or all of the other persons Plaintiff purports
4 to represent, are barred, in whole or in part, by the following doctrines: res judicata, collateral
5 estoppel, laches, assumption of risk, contributory negligence, duress, failure of consideration,
6 contribution, set-off, fraud, illegality, injury by fellow servant, license, joint and several liability,
7 payment, release, standing, real party in interest, accord and satisfaction, good faith, failure to
8 cooperate, failure to read, and/or release.

9 Defendant reserves the right to plead any additional affirmative defenses that become
10 available or known as this action proceeds, including, but not limited to, those defenses that
11 become known to Defendant through discovery. Defendant reserves the right to amend its
12 Answer to add such additional defenses or to delete any affirmative defenses that it
13 determines are not applicable, as well as any counterclaims and third-party claims, based on
14 information revealed during the discovery process.

15 WHEREFORE, Defendant prays for relief as follows:

- 16 1. That Plaintiff take nothing by reason of the Complaint and that judgment be entered
17 against Plaintiff and in favor of Defendant;
18 2. That Defendant be awarded its costs incurred in defending this action;
19 3. That Defendant be granted such other and further relief as the Court may deem just
20 and proper.

21
22
23 Dated: July 26, 2022

MAYNARD COOPER & GALE LLP

24
25 By: /s/ Ophir Johna
OPHIR JOHNA

26
27 Attorney For Defendant
WILCO LIFE INSURANCE COMPANY
28

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
 3 COUNTY OF LOS ANGELES)

4 I am employed in the County of San Francisco, State of California. I am over the age of
 5 21 and am not a party to the within action. My business address is Maynard, Cooper & Gale, LLP,
 6 Two Embarcadero Center, Suite 1450, San Francisco, CA 94111. On the date indicated below, I
 7 served the foregoing document described as:

8 **WILCO LIFE INSURANCE COMPANY'S ANSWER**

9 on the interested parties in this action by placing: [] the original document - OR- [X] a true and
 10 correct copy thereof enclosed in sealed envelopes addressed as follows:

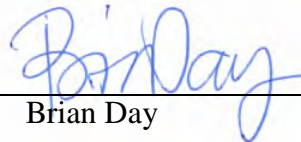
11 Annette C. Clark (SBN 208216)
 12 Ryan J. Carlson (SBN 308270)
 13 CALLAHAN, THOMPSON, SHERMAN & CAUDILL, LLP
 14 350 Tenth Avenue, Suite 1000
 15 San Diego, CA 92101
 16 Email: aclark@ctsclaw.com; rcarlson@ctsclaw.com
 17 *Attorneys for Plaintiffs*

18 [X] **BY MAIL:** I caused such envelope(s) to be deposited in the mail at San Francisco,
 19 California. The envelope(s) was (were) mailed with postage fully prepaid. I am "readily
 20 familiar" with this firm's practice of collection and processing correspondence for mailing.
 21 It is deposited with U.S. postal service on the same day in the ordinary course of business.

22 [X] **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
 23 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
 24 documents to be sent from email address bday@maynardcooper.com to the persons at the
 25 e-mail addresses listed above. I did not receive, within a reasonable time after the
 26 transmission, any electronic message or other indication that the transmission was
 27 unsuccessful.

28 I declare that I am employed in the office of a member who has been admitted to the bar
 of this Court at whose direction the service was made. I declare under penalty of perjury under
 the laws of the State of California that the foregoing is true and correct.

Executed on July 26, 2022, in San Francisco, California.

21 
 22 _____
 23 Brian Day

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
 3 COUNTY OF LOS ANGELES)

4 I am employed in the County of Los Angeles, State of California. I am over the age of 21
 5 and am not a party to the within action. My business address is Maynard, Cooper & Gale, LLP,
 6 Two Embarcadero Center, Suite 1450, San Francisco, CA 94111. On the date indicated below, I
 7 served the foregoing document described as:

8 **WILCO LIFE INSURANCE COMPANY'S NOTICE OF REMOVAL**

9 on the interested parties in this action by placing: [] the original document - OR- [X] a true and
 10 correct copy thereof enclosed in sealed envelopes addressed as follows:

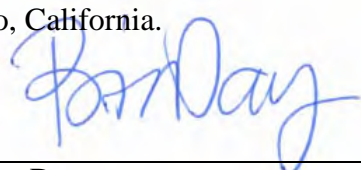
11 Annette C. Clark (SBN 208216)
 12 Ryan J. Carlson (SBN 308270)
 13 CALLAHAN, THOMPSON, SHERMAN & CAUDILL, LLP
 14 350 Tenth Avenue, Suite 1000
 15 San Diego, CA 92101
 16 Email: aclark@ctsclaw.com; rcarlson@ctsclaw.com
 17 *Attorneys for Plaintiffs*

18 [X] **BY MAIL:** I caused such envelope(s) to be deposited in the mail at San Francisco,
 19 California. The envelope(s) was (were) mailed with postage fully prepaid. I am "readily
 20 familiar" with this firm's practice of collection and processing correspondence for mailing.
 21 It is deposited with U.S. postal service on the same day in the ordinary course of business.

22 [X] **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
 23 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
 24 documents to be sent from email address bday@maynardcooper.com to the persons at the
 25 e-mail addresses listed above. I did not receive, within a reasonable time after the
 26 transmission, any electronic message or other indication that the transmission was
 27 unsuccessful.

28 I declare that I am employed in the office of a member who has been admitted to the bar
 of this Court at whose direction the service was made. I declare under penalty of perjury under
 the laws of the State of California that the foregoing is true and correct.

Executed on July 27, 2022, in San Francisco, California.



 Brian Day

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Wilco Life Insurance Co. Canceled Policies Without Sending Proper Notice](#)
