

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

Sandra Wood, individually and as
Administratrix of the Estate of Michael
Wood, deceased, and on behalf of all others
similarly situated,

Plaintiff,

v.

American Bankers Life Assurance Company
of F.L.O.R.I.D.A.,

Defendant.

C.A. No. 5:21-cv-00281
(Removed from Circuit Court of Raleigh
County, C.A. No. CC-41-2021-C-93)

NOTICE OF REMOVAL

Defendant, American Bankers Life Assurance Company of Florida (“ABLAC”),¹ through its undersigned counsel, hereby removes the above-captioned action from the Circuit Court of Raleigh County, West Virginia, to the United States District Court for the Southern District of West Virginia pursuant to the Class Action Fairness Act of 2005 (“CAFA”) and traditional diversity jurisdiction under 28 U.S.C. 1332(a). *See* 28 U.S.C. §§ 1332, 1441, 1446 and 1453. ABLAC states as follows in support of removal:

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff’s Initial Federal Complaint

1. On March 22, 2021, Plaintiff Sandra Wood, individually and as Administrator of the Estate of Michael Wood (“Plaintiff”), initially filed a putative class action against ABLAC in the United States District Court for the Southern District of West Virginia, Beckley Division (the

¹ The State Court and Federal Complaints erroneously refer to ABLAC as “American Bankers Life Assurance Company of F.L.O.R.I.D.A.”

“Federal Complaint”). The case was styled as *Wood v. American Bankers Life Assurance Co. of F.L.O.R.I.D.A.*, No. 5:21-cv-00180 and assigned to the Honorable Judge Frank W. Volk (the “Federal Action”). A copy of the Federal Complaint is attached hereto as Exhibit 1.

2. Plaintiff’s Federal Complaint admits all of the facts needed to establish jurisdiction under CAFA and traditional diversity jurisdiction. *See* 28 U.S.C. § 1332(a), (d); Fed. Action, Dkt. No. 1, Fed. Compl. ¶ 5.

3. The Federal Complaint alleged that ABLAC sold Plaintiff and putative class members life, disability and / or unemployment insurance policies marketed to pay off residential real estate loans in the event of a covered claim. *See id.* ¶ 7, p. 3. Plaintiff further alleged that ABLAC “continue[d] to collect” certain “automatic premium withdrawals” from Michael Wood and the putative class members after “bank customers paid off their loans.” *Id.* ¶ 12, p. 4.

4. The Federal Complaint alleged the following claims against ABLAC: 1) negligence; 2) breach of contract; 3) common law bad faith; 4) purported violations of the West Virginia Unfair Trade Practices Act; 5) unjust enrichment / disgorgement; and 6) purported violations of the West Virginia Consumer Credit and Protection Act. *See id.* ¶¶ 22-70, pp. 10-19.

5. In the Federal Complaint, Plaintiff sought to represent the following putative class pursuant to Federal Rule of Civil Procedure 23(b)(3):

All Persons who were holders of a West Virginia certificate of insurance through Defendant, American Bankers Life Assurance Company of Florida, between March 22, 2011 and the present (“Class Period”), whose bank loan was paid off, but automatic insurance premium withdrawals continued through a banking institution.

Id. ¶ 19, p. 6.

6. Importantly, the Federal Complaint ***explicitly admitted*** that “[t]his Court has jurisdiction pursuant to the Class Action Fairness Act (C.A.F.A.), 28 U.S.C. § 1332(d)(2) because

the amount in controversy exceeds \$5,000,000.00 exclusive of interest and costs and the members of the Class are residents of states different from one or more defendants.” *Id.* ¶ 5, p .3.

7. The Federal Complaint further *admitted* the existence of traditional diversity jurisdiction and stated that “[t]his Court also has jurisdiction pursuant to 28 U.S.C § 1332(a) as numerous members of the Class are citizens of states different from one or more Defendants.” *Id.* ¶ 6, p. 3.

8. Plaintiff’s Federal Complaint sought recovery from ABLAC for alleged “compensatory damages, treble damages, punitive damages, which said sums are in excess of \$5,000,000, attorneys’ fees and costs, pre-judgment interest, post-judgment interest as provided by law, suitable equitable relief, restitution, disgorgement . . . of all profits, and for such other relief as may be proper under law.” *Id.* at p. 19.

9. On March 31, 2021, Plaintiff filed a Notice of Dismissal and voluntarily dismissed her Federal Complaint and the Federal Action without prejudice. *See* Fed. Action, Dkt. No. 4. Plaintiff never effectuated service of the Federal Complaint on ABLAC.

Plaintiff’s State Court Complaint

10. On March 31, 2021, Plaintiff refiled a virtually identical putative class action Complaint (the “State Court Complaint”) against ABLAC in the Circuit Court of Raleigh County, West Virginia. The action is styled as *Wood v. American Bankers Life Assurance Co. of F.L.O.R.I.D.A.*, No. CC-41-2021-C-93 (the “State Court Action”). Pursuant to 28 U.S.C. § 1446(a), a copy of the State Court Complaint and Summons are attached hereto as Exhibit 2.

11. Plaintiff’s State Court Complaint alleges that ABLAC sold Plaintiff and putative class members life, disability and / or unemployment insurance policies marketed to pay off residential real estate loans in the event of a covered claim. *See* State Court Compl. ¶ 5, p. 3.

Plaintiff further alleges that ABLAC “continue[d] to collect” certain “automatic premium withdrawals” from Michael Wood and the putative class members after “bank customers paid off their loans.” *Id.* ¶ 12, p. 3.

12. The State Court Complaint alleges the following claims against ABLAC: 1) negligence; 2) breach of contract; 3) common law bad faith; 4) purported violations of the West Virginia Unfair Trade Practices Act; 5) unjust enrichment / disgorgement; and 6) purported violations of the West Virginia Consumer Credit and Protection Act. *See id.* ¶¶ 22-71, pp. 9-19.

13. In the State Court Complaint, Plaintiff seeks to represent the following putative class pursuant to West Virginia Rule of Civil Procedure 23(b)(3):

All persons who were holders of a West Virginia certificate of insurance through Defendant, American Bankers Life Assurance Company of Florida, between March 31, 2011 and the present (“Class Period”), whose bank loan was paid off, but automatic insurance premium withdrawals continued through a banking institution.

Id. ¶ 19, pp. 5-6.

14. Plaintiff’s State Court Complaint omits the allegations explicitly conceding that this Court has CAFA jurisdiction and traditional diversity jurisdiction, which Plaintiff included in its initial Federal Complaint. *See, e.g., id.* ¶¶ 3-4. The State Court Complaint, however, neither disavows nor contradicts the Federal Complaint’s allegations.

15. Plaintiff’s State Court Complaint seeks recovery from ABLAC for alleged “compensatory damages, treble damages, punitive damages, attorneys’ fees and costs, pre-judgment interest, post-judgment interest as provided by law, suitable equitable relief, restitution, disgorgement . . . of all profits, and for such other relief as may be proper under law.” *Id.* at p. 19.

THIS NOTICE OF REMOVAL IS TIMELY

16. Plaintiff served a copy of the Summons and the State Court Complaint on ABLAC via the West Virginia Secretary of State on April 5, 2021. *See Ex. 2.*

17. Other than the filing and service of the Summons and State Court Complaint, no other proceedings have occurred in State Court Action, and Plaintiff has not served any other pleadings, process or orders. Pursuant to 28 U.S.C. § 1446(a) and Local Rule of Procedure 3.4(b), ABLAC is attaching a copy of the state court docket to this Notice as Exhibit 3.

18. In accordance with 28 U.S.C. § 1446(d), ABLAC is promptly providing written notice to Plaintiff, through her counsel, that this case has been removed to this Court pursuant to this Notice of Removal. ABLAC is also filing this Notice of Removal and a copy of the same with the Clerk of the Circuit Court of Raleigh County, West Virginia. ABLAC's state court Notice of Filing is attached as Exhibit 4.

19. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b), because removal has occurred within 30 days of service of the Summons and Complaint upon Defendant.

JURISDICTION UNDER THE CLASS ACTION FAIRNESS ACT

20. This Court has original jurisdiction over this case pursuant CAFA. *See* 28 U.S.C. § 1332(d). CAFA provides that a federal district court shall have original jurisdiction over any civil class action that meets the following criteria: (1) the plaintiff's proposed class contains 100 or more members; (2) any member of a class of plaintiffs is a citizen of a State different from any defendant; and (3) the amount in controversy exceeds \$5 million in the aggregate. *See* 28 U.S.C. § 1332(d)(2), (5); *see, e.g., Scott v. Cricket Commc'ns, LLC*, 865 F.3d 189, 194 (4th Cir. 2017) (analyzing the CAFA factors and reversing a district court's remand order); *Cox v. Air Methods Corp.*, No. 17-cv-04610, 2018 WL 2437056, at *2 (S.D. W. Va. May 5, 2018) (same).

21. "A defendant invoking CAFA to remove a class action from state court must file a notice of removal in the proper district court 'containing *a short and plain statement of the grounds for removal.*'" *Scott*, 865 F.3d at 194 (quoting 28 U.S.C. § 1446(a)) (emphasis added).

Furthermore, “[b]ecause ‘no antiremoval presumption attends cases invoking CAFA . . . a defendant’s notice of removal need include only a plausible allegation’” that the case meets the CAFA criteria for removal. *Id.* (quoting *Dart Cherokee Basin Op. Co. v. Owens*, 574 U.S. 81, 89 (2014)).

22. “The Supreme Court was clear in *Dart Cherokee*: the liberal rules of pleading apply to removal allegations.” *Id.* at 195 (citing *Dart Cherokee*, 574 U.S. at 87); *Lanham v. Nationstar Mortgage, LLC*, 169 F.Supp.3d 659, 664 n.6 (S.D. W. Va. 2016) (holding that the court must apply the *Dart Cherokee* analysis when reviewing *all* of the CAFA requirements articulated in a Notice of Removal); *see also Ellenburg v. Spartan Motors Chassis, Inc.*, 519 F.3d 192, 200 (4th Cir. 2008) (reversing a district court’s remand order and holding that a removing party’s notice of removal need not “meet a higher pleading standard than the one imposed on a plaintiff in drafting an initial complaint”).

23. Moreover, courts routinely consider information such as a plaintiff’s prior pleadings in an action and demand letters when evaluating if a case meets the statutory requirements for removal. *See, e.g., Scaralto v. Ferrell*, 826 F.Supp.2d 960, 967 (S.D. W. Va. 2011) (“A settlement demand . . . is very like an *ad damnum* clause over that amount and should be treated similarly. Both are statements by plaintiffs as to the amount claimed and are therefore the best measure of the amount in controversy.” (citing *Rising-Moore v. Red Roof Inns, Inc.*, 435 F.3d 813, 816 (7th Cir. 2006)); *Cunningham v. Millers Cas. Ins. Co.*, No. 00-cv-1792, 2001 WL 37125218, at *3 (D.N.M. Mar. 19, 2001) (holding that a court “may certainly look to the plaintiff’s . . . earlier pleading” to assess if a case meets the jurisdictional requirements for removal (citing Charles Alan Wright, *Law of Federal Court*, § 33 at 197 (5th Ed. 1994))).

24. This action satisfies all of CAFA's criteria for federal jurisdiction and this Court has original subject matter jurisdiction.

The Putative Class Consists of More than 100 Members

25. CAFA defines the term "class action" as "any civil action filed under [R]ule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action." 28 U.S.C. § 1332(d)(1)(B).

26. Plaintiff filed this case as a West Virginia state court class action pursuant to Rule 23 of the West Virginia Rules of Civil Procedure, which is similar to Rule 23 of the Federal Rules of Civil Procedure. State Court Compl. at ¶ 9, pp. 5-6. Consequently, this case falls within CAFA's definition of a "class action."

27. Plaintiff's Federal Complaint stated that "[t]his Court has jurisdiction pursuant to [CAFA]" and thereby conceded that the members of the putative class at issue in the Federal Complaint exceeded 100 members. *See* Fed. Action, Fed. Compl., Dkt. No. 1 ¶¶ 5, 19, pp. 3, 6. In the Federal Complaint, Plaintiff sought to represent herself and "all persons who were holders of a West Virginia certificate of insurance through [ABLAC], between March 22, 2011 and the present . . . whose bank loan was paid off, but automatic premium withdrawals continued through a banking institution." *Id.* ¶ 19, p. 6; *see, e.g., Cunningham*, 2001 WL 37125218, at *3 (analyzing a plaintiff's previous federal complaint to assess if the case met the jurisdictional requirements for removal).

28. The State Court Complaint contains a virtually identical putative class definition and thus concedes that the putative class exceeds 100 members. *See* State Court Compl. ¶ 19, pp. 5-6. Specifically, in the State Court Complaint, Plaintiff seeks to represent herself and "all persons

who were holders of a West Virginia certificate of insurance through [ABLAC] between March 31, 2011 and the present . . . whose bank loan was paid off, but automatic premium withdrawals continued through a banking institution.” *Id.* The only minor difference in the two putative class definitions is that the Federal Complaint identifies a class period beginning on March 22, 2011 and the State Court Complaint identifies a class period beginning on March 31, 2011, which is a trivial difference of nine days. *Compare id., with* Fed. Compl. ¶ 19, p. 6.

29. Moreover, although Plaintiff’s State Court Complaint does not identify a precise number of putative class members, it alleges that the class is so “numerous” that joinder of all members “would be unreasonable and impracticable.” State Court Compl. ¶ 20(a), p. 6.

30. Therefore, this action meets the requirements of 28 U.S.C. § 1332(d) because it is a putative class action consisting of 100 or more members.

This Case Satisfies CAFA’s Minimal Diversity Requirement

31. CAFA’s minimal diversity of citizenship requirement is set forth in 28 U.S.C. § 1332(d)(2) and provides that a federal court shall have jurisdiction if any member of a putative class of plaintiffs is a citizen of a State different from any defendant.

32. Plaintiff’s Federal Complaint explicitly admitted that this case satisfies CAFA’s minimal diversity requirement. *See* Fed. Compl. ¶ 5, p. 3. Specifically, the Federal Complaint alleged that “[t]his Court has jurisdiction pursuant to [CAFA] because . . . members of the Class are residents of states different from one or more defendants.” *Id.; Cunningham*, 2001 WL 37125218, at *3 (analyzing a plaintiff’s previous federal complaint to assess if the case met the jurisdictional requirements for removal).

33. Plaintiff’s State Court Complaint alleges that Plaintiff Sandra Wood, as “Administratrix of the Estate of Michael Wood” and as “a third-party beneficiary of Michael

Wood's insurance policy with [ABLAC]," "is now and has been at all times alleged herein a resident of Raleigh County, West Virginia." State Court Compl. ¶ 3, p. 2. Moreover, Plaintiff alleges that Michael Wood, at the time he supposedly entered into "a policy of life insurance" with ABLAC and at the purported time of his death on February 8, 2018, "was a resident of 188 Allenwood Lane, Shady Springs, Raleigh County, West Virginia." *Id.* Thus, Plaintiff Sandra Wood is a citizen of West Virginia for the purposes of CAFA's minimal diversity analysis. *See* 28 U.S.C. § 1332(c)(2) ("[T]he legal representative of the estate of a decedent shall be deemed to be a citizen only of the same state as the decedent.").

34. Plaintiff's own allegations as well as public records from the West Virginia Secretary of State and the West Virginia Offices of the Insurance Commissioner establish that ABLAC is a Florida corporation with its principal place of business located in Miami, Florida. *See* State Court Compl. ¶ 4 (alleging that ABLAC is a Florida corporation)²; Exs. 5 & 6, (public records from the West Virginia Secretary of State and the West Virginia Officers of the Insurance Commissioner establishing that ABLAC is a Florida corporation with a principal place of business in Miami, Florida). ABLAC is a citizen of Florida for the purposes of this diversity analysis. *See* 28 U.S.C. § 1332(c)(1) ("[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.").

35. Accordingly, minimal diversity exists because at least one putative class member (Plaintiff) and the only Defendant (ABLAC) are diverse. *See* 28 U.S.C. § 1332(d)(2)(A).

² Plaintiff's Federal Complaint explicitly admitted that ABLAC is "a Florida corporation with its principal office located in Miami, Florida." *See* Fed. Compl. ¶ 3, p. 2. However, Plaintiff omitted the allegation regarding ABLAC's principal office in Miami, Florida from the State Court Complaint. *Compare id.*, with State Court Compl. ¶ 4, p. 2. Nonetheless, the State Court Complaint neither disavows nor contradicts this prior allegation.

This Case Satisfies CAFA’s Amount-In-Controversy Requirement

36. CAFA provides that the claims of the putative class members “shall be aggregated” to determine whether the jurisdictional minimum of \$5 million has been met. 28 U.S.C. § 1332(d)(2), (6); *see also Moffitt v. Residential Funding Co., LLC*, 604 F.3d 156, 158 (4th Cir. 2010).

37. Plaintiff’s Federal Complaint ***explicitly conceded*** that the “amount in controversy exceeds \$5,000,000.00 exclusive of interest and costs” and acknowledged that the “compensatory damages, treble damages [and] punitive damages . . . are in excess of \$5,000,000.00.” Fed. Compl. ¶ 5, p. 3, 19. *Cunningham*, 2001 WL 37125218, at *3 (holding that a court “may certainly look to the plaintiff’s statement of the amount in controversy in an earlier pleading” because “[g]reat weight should be given to the plaintiff’s own assessment of the value of his case.”).

38. Although Plaintiff omitted a specific monetary demand from her State Court Complaint, the Federal Complaint and the State Court Complaint contain virtually identical factual allegations and assert the exact same claims for relief against ABLAC. *Compare* Fed. Compl. ¶¶ 22-70, pp. 10-19, *with* State Court Compl. ¶¶ 22-71, pp. 9-19. Moreover, the proposed class definitions that Plaintiff included in the Federal Complaint and the State Court Complaint are virtually identical except for a trivial nine-day difference in the class period. *Compare* Fed. Compl. ¶ 19, p. 6, *with* State Court Compl. ¶ 19, pp. 5-6. Thus, Plaintiff has conceded that the amount allegedly in controversy in the State Court Complaint exceeds CAFA’s jurisdictional minimum of \$5 million.

39. Next, Plaintiff’s counsel submitted a settlement demand letter and a “notice of claim” to ABLAC on July 2, 2020, which reveals that the amount in controversy exceeds the jurisdictional threshold. July 2, 2020 Letter at p. 1-2 (a copy of the July 2, 2020 letter is attached

hereto as Ex. 7.). Specifically, Plaintiff's July 2, 2020 letter demanded that ABLAC "immediately" pay to Plaintiff the "face amount of the policy," which Plaintiff identified as \$50,000.000, as well as "reimbursement" for allegedly excess "premium payments" that ABLAC supposedly collected. *Id.* at p. 1-2.

40. Plaintiff's State Court Complaint incorporates the July 2, 2020 letter by reference in Plaintiff's breach of contract claim and reiterates Plaintiff's demand for the \$50,000.00 "face amount of the policy." State Court Compl. ¶ 33, at p. 11. The State Court Complaint also alleges that ABLAC purportedly collected excess "premium withdrawals" from the putative class members after their "bank loan[s]" were supposedly "paid off." *Id.* ¶ 19, at p. 6. Moreover, Plaintiff further alleges that ABLAC also purportedly "breached its contracts of insurance" with "members of the Putative Class" by "failing to pay the face amount of the policies." *Id.* ¶ 34, at p. 11. Additionally, Plaintiff alleges that her "claims" are "typical of the claims of the members of the Class" and that ABLAC "acted in a manner that affected all [putative class members] similarly." *Id.* ¶¶ 20 (b), (c), at pp. 7. As a result of these allegations, Plaintiff alleges that the putative class members are each seeking to recover at least \$50,000.00 for the "face value" of their supposed policies as well as a recovery for "excess premium withdrawals."

41. As discussed in Paragraphs 25 through 30 above, Plaintiff has admitted that the putative class includes at least 100 members.

42. Thus, based upon the July 2, 2020 demand letter, as incorporated into Plaintiff's State Court Complaint, and the other allegations presented in the State Court Complaint, Plaintiff alleges that at least 100 putative class members have purported claims against ABLAC for at least \$50,000.00 *plus* the amount of "excess premiums" ABLAC supposedly collected from the putative class members. Consequently, the demand letter and related breach of contract allegations

establish that the amount-in-controversy exceeds the jurisdictional minimum of \$5 million (a minimum of 100 class members multiplied by the alleged amount of at least \$50,000 per class member plus additional “excess premium” costs for each putative class member).

43. Other claims asserted in the State Court Complaint also explicitly reveal that the amount in controversy greatly exceeds the \$5 million jurisdictional minimum. For instance, Plaintiff alleges a claim for supposed violations of the West Virginia Consumer Credit and Protection Act (the “WVCCPA”) and seeks damages under the statute. *See id.* ¶¶ 61-71, at pp. 17-18; W. Va. Code §46A-1-101, *et seq.* The WVCCPA states that a consumer may recover: (a) “[a]ctual damages”; and (b) a statutory penalty of \$1,000 for each violation of the statute up to a maximum of “the greater of \$175,000 or the total alleged outstanding indebtedness.” W. Va. Code §46A-5-101(1). In a class action, each class member may seek a recovery of up to these limits. *Id.* Courts have discretion to increase the \$1,000 statutory penalty for each violation of the WVCCPA to account for inflation calculated from September 1, 2015 to the time of the damages award based upon the U.S. Bureau of Labor Statistics’ consumer price index inflation calculator.³ *See* W. Va. Code § 46A-5-106.

44. Here, such an adjustment for inflation would result in a per-violation statutory penalty of \$1,113.19. *Countryman v. NCO Fin. Sys., Inc.*, No. 09-cv-00288, 2009 WL 1506720, at *2 (S.D. W. Va. May 27, 2009) (adjusting a WVCCPA statutory penalty for inflation and holding that defendant met the amount in controversy for removal purposes).

45. The statute of limitations for a claim arising under the WVCCPA is four years. W. Va. Code § 46A-5-101.

³ *See* United States Department of Labor, Bureau of Labor Statistics, CPI Inflation Calculator: http://www.bls.gov/data/inflation_calculator.htm.

46. “For the purposes of calculating the amount in controversy, the Court uses the maximum total statutory penalties that may be imposed on [d]efendants under the WVCCPA.” *Countryman*, 2009 WL 1506720, at *2; see *Kelley v. Sallie Mae, Inc.*, No. 14-cv-138, 2015 WL 1650080, at *5 (N.D. W. Va. 2015) (“When there is a maximum penalty by statute, it is appropriate to measure the amount in controversy by the maximum and not by what the plaintiff is likely to win. . . . This method of measuring the amount in controversy is also the common practice in cases under the WVCCPA which have been removed to federal court.” (citing *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 449 (7th Cir. 2005); *Knott v. HSBC Card Servs., Inc.*, No. 10-cv-82, 2010 WL 35522105, at *4 (N.D. W. Va. Sept. 8, 2010)).

47. Here, Plaintiff alleges that Mr. Wood paid off his underlying loan on or about May 6, 2009 and claims that ABLAC violated the WVCCPA when it supposedly continued to make “automatic premium withdrawals” following the loan payoff date. See State Court Compl. ¶¶ 15-61-71, at pp. 4, 17-19. Thus, if Plaintiff’s claim is timely (which ABLAC does not concede), Plaintiff asserts an individual claim for \$1,113.19.00 for each alleged “automatic premium withdrawal” for a four year period and a total statutory penalty demand of \$53,433.12 ($\$1,113.19.00 \times 12 \times 4$).⁴

48. As discussed above, Plaintiff alleges that her “claims” are “typical of the claims of the members of the Class,” that ABLAC “acted in a manner that affected all [putative class members] similarly,” and that the class consists of at least 100 putative members. *Id.* ¶¶ 20 (b), (c), at pp. 7. Consequently, the amount-in-controversy for the WVCCPA statutory damages claim

⁴ This assumes that the \$53,433.12 statutory penalty is greater than the total alleged outstanding indebtedness. See W. Va. Code §46A-5-101(1). However, if the total alleged outstanding indebtedness is greater, this sum may increase significantly.

asserted in Plaintiff's State Court Complaint is at least **\$5,343,312.00** (\$53,433.12 x 100). The sum is well in excess of the jurisdictional minimum of \$5 million.

49. The WVCCPA also provides that an insurer "who fails to refund any unused insurance premium or provide the proper notification of payoff" can be held liable for treble damages "up to three times the amount of the unused premium." W. Va. Code § 46A-3-109(8).

50. Plaintiff seeks a recovery of treble damages for purported violations of the WVCCPA. *See* State Court Compl. ¶ 71, at p. 19. Consequently, the trebling of the alleged statutory damages will further increase the amount in controversy for the purposes of this removal analysis. *See Atkins v. AT&T Mobility Services, LLC*, No. 18-cv-00599, 2019 WL 5190971, at *8 n.8 (S.D. W. Va. Oct. 15, 2019) (considering plaintiffs' claim for treble damages for the purposes of an amount in controversy analysis and denying a motion to remand); *see also Wall v. Fruehauf Trailer Servs., Inc.*, 123 F. App'x 572, 577 (4th Cir. 2005) (considering treble damages as a part of the amount in controversy and holding that defendant satisfied the amount in controversy requirement for removal); *Mullins v. Harry's Mobile Homes, Inc.*, 861 F.Supp. 22, 24 (S.D. W. Va. 1994) (holding that "punitive damages are a part of the amount in controversy for jurisdictional amount purposes" and denying a motion to remand).

51. Plaintiff alleges the monthly premium payments were \$17.50 per month (\$210 / year) during the relevant time period. State Court Compl. ¶ 8, p. 3. If Plaintiff's claim is timely (which ABLAC does not concede), Plaintiff asserts a potential claim for alleged premium overpayment in the amount of **\$840** (\$210 x 4) during the 4 year limitations period that applies to the WVCCPA claim. W. Va. Code § 46A-5-101. As noted, Plaintiff alleges that her "claims" are "typical of the claims of the members of the Class" and that ABLAC "acted in a manner that affected all [putative class members] similarly." State Court Compl. ¶¶ 20 (b), (c), at pp. 7. Thus,

Plaintiff asserts a claim for premium payment in the amount of **\$84,000** (\$840 x 100) on behalf of at least 100 putative class members. If the Court were to treble this amount, the total amount of the treble damages awarded to the putative class would be **\$252,000** (\$84,000 x 3). Treble damages increases the total amount in controversy for Plaintiff's WVCCPA statutory damages claim to **\$5,595,312.00** (\$5,343,312.00 + \$252,000).

52. Additionally, federal courts in West Virginia consider attorneys' fees when calculating the amount in controversy for removal jurisdiction if a West Virginia statute, such as the WVCCPA, expressly provides for a recovery of such fees. *See, e.g., Jones v. Capital One Bank (USA), N.A.*, No. 09-cv-00994, 2009 WL 3335350, at *3 (S.D. W. Va. 2009) (considering attorneys' fees under the WVCCPA as a part of the amount in controversy and denying a motion for remand); *Countryman*, 2009 WL 1506720, at *2 (same). Federal courts assume that a plaintiff may be able to recover up to one-third of its total recovery in attorneys' fees when calculating the amount in controversy. *See, e.g., Holstein v. Sears Holdings Corp.*, No. 14-cv-21166, 2014 WL 4467696, at *2 (S.D. W. Va. Sept. 9, 2014) (adding a "one-third attorney's fee" to the amount in controversy for CAFA removal purposes).

53. Here, the WVCCPA allows for a recovery of attorneys' fees for any "illegal, fraudulent or conscionable conduct." W. Va. Code § 46A-5-104. Plaintiff's State Court Complaint explicitly seeks recovery of alleged "attorneys' fees and costs." *See* State Court Compl. ¶¶ 70 & "Wherefore," at pp. 19. If the Court were to award attorneys' fees on only the sum at issue in the WVCCPA statutory damages claim, the total amount of fees would be **\$1,865,104.00** (\$5,595,312.00 x 1/3) if the Court considers the treble damages award. Even if the Court were to award attorneys' fees on the statutory penalty alone, without considering any treble damages, the amount of attorneys' fees would be **\$1,781,104.00** (\$5,343,312.00 x 1/3).

54. Consequently, the amount in controversy for Plaintiff's WVCCPA class claim is either **\$7,460,416.00** (\$5,595,312.00 + \$1,865,104.00) (if the Court considers treble damages when it assesses attorneys' fees) or **\$7,376,416.00** (\$5,595,312.00 + \$1,781,104.00) (if the Court omits treble damages from the attorneys' fees calculation). Both sums exceed CAFA's \$5 million jurisdictional requirement.

55. Moreover, this analysis does not consider Plaintiff's other claims for negligence (Count I), common law bad faith (Count III), unfair trade practices (Count IV) and unjust enrichment (Count V). *See* State Court Compl. ¶¶ 22-26, 37-60, at pp. 9-10, 12-17. For these other claims, Plaintiff seeks a recovery of alleged "compensatory damages, treble damages, punitive damages, attorneys' fees and costs, pre-judgment interest, post-judgment interest as provided by law, suitable equitable relief, restitution, disgorgement by Defendant of all profits." *See id.* at p. 19. The claims will significantly increase the amount in controversy in this action. However, the preceding discussion establishes that this case satisfies the CAFA amount in controversy requirement and an extended discussion of these other claims is neither warranted nor necessary. *See Scott*, 865 F.3d at 194 (holding that a notice of removal need only contain a "short and plain statement of the grounds for removal" and plausible allegations that the case meets the CAFA requirements).

This Court Has Traditional Diversity Jurisdiction

56. The Court also has traditional diversity jurisdiction over this case. Pursuant to 28 U.S.C. § 1332(a), the "district courts shall have original jurisdiction of all civil actions" where the parties are completely diverse and the amount in controversy exceeds the sum or value of \$75,000.

57. A notice of removal seeking to remove a case to federal court pursuant to traditional diversity jurisdiction need only satisfy “the notice-pleading requirements of 28 U.S.C. § 1446(a) and, indirectly Federal Rule of Civil Procedure 8(a).” *Ellenburg*, 519 F.3d at 194.

58. Here, Plaintiff’s initial Federal Complaint *explicitly admitted* that “this Court has jurisdiction pursuant to 28 U.S.C. §1332(a)” and that the case satisfies all of the requirements for traditional diversity jurisdiction. *See* Fed. Compl. ¶ 6, at p. 3.

59. Next, Plaintiff’s State Court Complaint as well as public records from the West Virginia Secretary of State and the West Virginia Offices of the Insurance Commissioner further establish the existence of complete diversity. As set forth in Paragraphs 33 and 34 above, Plaintiff is a citizen of West Virginia and ABLAC is a citizen of Florida. *See also* State Court Compl. ¶¶ 3, 4; Exs. 5 & 6 (ABLAC is a Florida corporation with a principal place of business in Miami, Florida).

60. Plaintiff’s individual claim also satisfies the \$75,000.00 amount in controversy requirement.

61. As discussed in Paragraphs 39 and 40 above, Plaintiff’s July 2, 2020 letter demanded that ABLAC “immediately” pay to Plaintiff the “face amount of the policy,” which Plaintiff identified as \$50,000.000, as well as “reimbursement” for allegedly excess “premium payments” that ABLAC supposedly collected. Ex. 7, July 2, 2020 Letter at p. 1-2.

62. Plaintiff’s State Court Complaint incorporates the July 2, 2020 letter by reference in Plaintiff’s breach of contract claim and reiterates Plaintiff’s demand for the \$50,000.00 “face amount of the policy.” State Court Compl. ¶ 33, at p. 11. The State Court Complaint also alleges that ABLAC purportedly collected excess “automatic premium withdrawals” from Plaintiff after Mr. Wood’s “loan” was supposedly “paid.” *See, e.g., id.* ¶ 15, at p. 4-5.

63. Plaintiff alleges that the monthly premium payments were \$17.50 per month (\$210 / year) during the relevant time period. *Id.* ¶ 8, p. 3. If Plaintiff's claim is timely (which ABLAC does not concede), Plaintiff asserts a potential claim for alleged premium overpayment in the amount of **\$2,100.00** (\$210 x 10) during the ten-year limitations period that applies to the breach of contract claim. W. Va. Code § 55-2-6.

64. As a result of these allegations, Plaintiff alleges she is seeking to recover at least \$50,000.00 for the "face value" of the supposed ABLAC policy plus a recovery for \$2,100 for purported "excess premium withdrawals." The total amount in controversy for these allegations alone is **\$52,100.00**.

65. As discussed in Paragraphs 43 through 54 above, Plaintiff also seeks a separate recovery for statutory penalties under the WVCCPA. Here, as noted above, if Plaintiff's claim is timely (which ABLAC does not concede), Plaintiff asserts a potential individual claim for \$1,113.19.00 for each alleged "automatic premium withdrawal" for a four year limitations period and a total individual statutory penalty demand of **\$53,433.12** (1,113.19.00 x 12 x 4).⁵ W.Va. Code § 46A-5-101 (establishing a four year statute of limitations for WVCCPA claims).

66. Plaintiff's claims for the "face value" of the ABLAC policy allegedly at issue (\$52,100.00) and for statutory damages under the WVCCPA (\$53,433.12) result in a total amount in controversy of **\$105,533.12**. These two claims are sufficient to satisfy the \$75,000.00 amount in controversy requirement.

⁵ This assumes that the \$53,433.12 statutory penalty is greater than the total alleged outstanding indebtedness." *See* W. Va. Code §46A-5-101(1). However, if the total alleged outstanding indebtedness is greater, this sum may increase significantly.

67. Nonetheless, Plaintiff also seeks an individual award of treble damages and attorneys' fees under the WVCCA, which further increase the amount in controversy. *See* State Court Compl. ¶¶ 70-71 & "Wherefore," at p. 19.

68. If the Court awards Plaintiff treble damages on her individual WVCCPA claim for statutory damages, the treble damages in controversy will be **\$2,520.00** (\$840 (value of allegedly excess premium withdrawals for the 4 year WVCCPA limitations period) x 3) and the amount in controversy for the WVCCPA claim increases to **\$55,953.12** (\$53,433.12 + \$2,520.00). *See* W. Va. Code §§ 46A-3-109(8), 46A-5-101; *Atkins*, 2019 WL 5190971, at *8 n.8 (courts consider treble damages when evaluating the amount in controversy).

69. If the Court awards Plaintiff attorneys' fees on her WVCCPA statutory damages claim⁶ and considers the treble damages when issuing the award, the amount of attorneys' fees in controversy will be **\$18,651.04** (\$55,953.12 x 1/3). The amount of attorneys' fees in controversy will be **\$17,811.04** (\$53,433.12 x 1/3) if the Court omits the treble damages from the award.

70. Consequently, the treble damages and attorneys' fees increase the amount in controversy for Plaintiff's individual WVCCPA claim to either **\$74,604.16** (\$55,953.12 + \$18,651.04) (if the Court considers treble damages when it assesses attorneys' fees) or **\$73,764.16** (\$55,953.12 + \$17,811.04) (if the Court omits treble damages from the attorneys' fees calculation).

71. When these sums are combined with the amount in controversy related to Plaintiff's claim for at least \$50,000.00 for the "face value" of the supposed ABLAC policy plus a recovery for \$2,100 for purported "excess premium withdrawals" (which is \$52,100.00, as explained in Paragraph 64 above), the total amount in controversy for the two claims is either **\$126,704.16**

⁶ *See Holstein*, 2014 WL 4467696, at *2 (adding a "one-third attorney's fee" to the amount in controversy for removal purposes); *Countryman*, 2009 WL 1506720, at *2 (considering attorneys' fees when assessing the amount in controversy for removal under 28 U.S.C. § 1332(a)).

(\$52,100.00 + \$74,604.16) or ***\$125,864.16*** (\$52,100.00 + \$73,764.16). Both of these sums greatly exceed the \$75,000 jurisdictional minimum for removal.

72. Additionally, as discussed in Paragraph 55 above, this analysis does not even take into consideration four of Plaintiff's other claims and her additional requests for relief, which will also significantly increase the amount in controversy.

Venue is Proper in this Court and ABLAC Has Complied With All Other Procedural Requirements for Removal

73. This case has been removed from the Circuit Court of Raleigh County, West Virginia. *See* State Court Compl. at p. 1.

74. The Circuit Court of Raleigh County, West Virginia is located in the territory covered by the United States District Court for the Southern District of West Virginia, Beckley Division.

75. Thus, pursuant to 28 U.S.C. § 1441(a), venue for this case is proper in the United States District Court for the Southern District of West Virginia, Beckley Division. *See also* 28 U.S.C. § 129(b).

76. This case is not an action described in 28 U.S.C. § 1445.

77. Pursuant to 28 U.S.C. § 1446(d), ABLAC is serving a true and accurate copy of this Notice of Removal and all exhibits on counsel for the Plaintiff and ABLAC is also filing these documents with the Clerk of the Circuit Court of Raleigh County, West Virginia. ABLAC's state court Notice of Filing is attached as Exhibit 4.

78. Pursuant to 28 U.S.C. § 1446(a) and Local Rule of Procedure 3.4(b), ABLAC is attaching a copy of the state court docket to this Notice as Exhibit 3. ABLAC has also attached copies of all pleadings, process and orders served on ABLAC as Exhibit 2.

Reservation of Rights

79. ABLAC denies the allegations contained in Plaintiff's State Court Complaint and her Federal Complaint. ABLAC submits this Notice of Removal without waiving any defenses, claims, objections, procedural rights, exceptions or obligations that may exist in its favor in either West Virginia state court or federal court.

80. Furthermore, in making any of the allegations in this Notice of Removal or any of its exhibits, ABLAC does not concede in any way that the allegations in the State Court Complaint or the Federal Complaint are accurate, that Plaintiff has asserted claims upon which relief can be granted, that Plaintiff's claims are timely, or that recovery of any of the amounts sought is authorized or appropriate. ABLAC also does not concede that class certification is appropriate or that the class definition is proper. ABLAC reserves the right to contest the putative class at the appropriate time.

WHEREFORE, ABLAC respectfully removes this action from the Circuit Court of Raleigh County, West Virginia to this Court.

Dated: May 5, 2021

Respectfully submitted,

/s/ Jill Cranston Rice
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*Attorneys for American Bankers Life Assurance
Company of Florida*

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

Sandra Wood, individually and as
Administratrix of the Estate of Michael
Wood, deceased, and on behalf of all others
similarly situated,

Plaintiff,

v.

American Bankers Life Assurance Company
of F.L.O.R.I.D.A.,

Defendant.

5:21-cv-00281
C.A. No. _____
(Removed from Circuit Court of Raleigh
County, C.A. No. CC-41-2021-C-93)

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that she served the foregoing **Notice of Removal** and all exhibits on counsel of record listed below by depositing true copies thereof in the regular manner in the United States mail, postage prepaid, on the 5th day of May, 2021, addressed as below. Additionally, the Notice of Removal was filed electronically on the same date via CM/ECF.

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Counsel for Plaintiff

Respectfully submitted,

/s/ Jill Cranston Rice
Jill Cranston Rice (WVSB # 7421)

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

SANDRA WOOD, individually and as
ADMINISTRATRIX of the ESTATE of
MICHAEL WOODS, deceased,

PLAINTIFF,

v.

AMERICAN BANKERS LIFE ASSURANCE
COMPANY of F.L.O.R.I.D.A.

DEFENDANT.

*
*
*
*
* Civil Action No: 5:21-cv-00180
* Judge _____

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*

COMPLAINT

Now comes the Plaintiff, Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, Deceased, by counsel, Tiano O’Dell, P.L.L.C., and for the cause of action herein, states the following:

Introduction

1. Plaintiff, Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, her deceased husband, brings this suit on behalf of herself, the Estate of Michael Wood, and all persons who were holders of a West Virginia certificate of insurance through Defendant, American Bankers Life Assurance Company of Florida, between February __, 2011 and the present (“Class Period”), whose bank loan was paid off, but automatic insurance premium withdrawals continued through a banking institution.

2. The Defendant, American Bankers Life Assurance Company of Florida (hereinafter referred to as American Bankers), is an insurance company that sold and continues to

sell policies of life and disability insurance as part of consumer loan transactions through banks. The policies of insurance were marketed as insurance to pay off consumer bank loans in the event the creditor (policyholder) was to die, become disabled, or unemployed, as the case may be, during the term of the loan. American Bankers would require that the banks who helped them secure the life, disability, and unemployment policies from the bank's customers, including Plaintiff and members of the putative Class, set up automatic premium withdrawal for the monthly premium payments from the policyholder's bank account. Once the insurance policy was in place, American Bankers never sent policy updates or premium notices to the insureds, but American Bankers continued to collect premium payments from Plaintiff and the putative class members to increase corporate profits by having policyholders continue to make premium payments but not submit claims or otherwise be aware that an insurance policy remained in force in violation of the law, in violation of their written policies, in violation of ethical standards of good faith and fair dealing, and without regard to financial losses to its policyholders.

The Parties

3. Sandra Wood is now and has been at all times alleged herein a resident of Raleigh County, West Virginia. Michael Wood, at the time of entering into a policy of life insurance through American Bankers Life Insurance Company of Florida on May 1, 1996, and at the time of his death on February 8, 2018, was a resident of 188 Allenwood Lane, Shady Springs, Raleigh County, West Virginia. Sandra Wood is a third-party beneficiary of Michael Wood's insurance policy with American Bankers Life Insurance Company of Florida.

4. The Defendant, American Bankers Life Assurance Company of Florida (hereinafter referred to as American Bankers), is a Florida corporation with its principal office

located in Miami, Florida, and is licensed to do business in the State of West Virginia and doing business at all times alleged herein in Raleigh County, West Virginia. Defendant, American Bankers, contracts with residents of many states (including West Virginia) to sell insurance policies.

Jurisdiction and Venue

5. This Court has jurisdiction pursuant to the Class Action Fairness Act (C.A.F.A.), 28 U.S.C. §1332(d)(2) because the amount in controversy exceeds \$5,000,000.00 exclusive of interest and costs and members of the Class are residents of states different from one or more defendants.

6. This Court also has jurisdiction pursuant to 28 U.S.C. §1332(a) as numerous members of the Class are citizens of states different from one or more Defendants.

Background Facts

7. Defendant sells life, disability, and unemployment insurance to bank customers through bank loan officers as part of bank loan transactions. Plaintiff and the putative Class obtained loans from banks located in West Virginia. As part of the loan transaction, bank loan officers solicited and sold Plaintiff and putative class members American Bankers life, disability and/or unemployment insurance policies marketed to pay off loans in the event of a covered claim. By example, on or about March 30, 1994, the Plaintiff's decedent, Michael Wood, obtained a loan for Forty-Seven Thousand Nine Hundred Forty-Five Dollars (\$47,945.00) from Raleigh National Bank (now City National Bank) for the purchase of real estate in Raleigh County, West Virginia with a loan agreement in same amount. The bank loan was for a term of 30 years, with 360 monthly payments.

8. When the American Bankers insurance policies were placed, Defendant would require banks to set up automatic premium withdrawal from the putative class members', including Plaintiff's, bank accounts to pay the insurance premiums automatically. By example, on or about March 30, 1994, Raleigh National (City National), acting as an agent for American Bankers, offered Michael Wood credit life insurance for the loan described in the preceding paragraph, which Michael Wood accepted and paid for with automatic premium withdrawals of \$17.50 deducted monthly from his Raleigh National Bank (now City National Bank) account.

9. Once the policy was procured, Defendant sent Plaintiff and the putative class members a certificate of insurance. By example, the policy with ID Number 00000000043932-0 was issued by Defendant American Bankers to Plaintiff. The insurance transaction described in the paragraph is representative of the way Defendant American Bankers procured and placed its insurance policies with bank customers.

10. Upon information and belief, American Bankers used bank loan officers throughout West Virginia as unlicensed insurance agents to sell its insurance products to bank customers, including Plaintiff and the putative class members.

11. Once a policy of insurance was placed with a bank customer, Defendant American Bankers would issue a certificate of insurance but not provide a copy of the insurance policy itself.

12. Once bank customers paid off their loans, American Bankers, unbeknown to the bank customers, would continue to collect the automatic premium withdrawals and never communicate with its insureds, including Plaintiff and putative class members, about the continued premium withdrawals or the policy.

13. West Virginia law requires that all credit life and credit accident and sickness insurance be terminated by the insurer, in this case, Defendant, when indebtedness is paid off or discharged, and provide any refund due and owing to the policyholder. *See W.V.C.S.R. §114-6-4*. Defendant did not terminate credit insurance policies of Plaintiff and the Putative Class' as required by West Virginia law.

14. West Virginia law also requires the insurer, in this case, Defendant, to review the bank accounts of its policyholders to determine if the policy needed to be terminated, premiums adjusted, or claims paid. Defendant did not properly review bank accounts of Plaintiff and members of the Putative Class.

15. Due to the lack of communication or proper review of accounts by American Bankers and the passage of time, its insureds, including Plaintiff and the putative class members, were unaware that an American Bankers policy existed, remained in force, and that premium payments were being automatically withdrawn every month. By way of example, on or about May 6, 2009, Michael Wood paid off the March 30, 1994 loan agreement in full, but American Bankers did not cease the automatic premium withdrawals, terminate the policy, nor did it communicate with Michael Wood regarding the continued automatic premium withdrawals or provide any information regarding the policy remaining in force after the loan was paid despite its legal and good faith requirements to do so. As a result, Plaintiff continued to make premium payments for the policy for more than ten years after the loan was paid off.

16. American Bankers intentionally and deliberately failed to properly communicate about existing policies or continued premium withdrawals to Plaintiff and the putative Class members in order to increase profits by avoiding claims on existing policies while

continuing to collect premium payments unbeknownst to policyholders and beneficiaries.

17. Throughout the Class Period and to the present, Defendant has engaged in a companywide course of conduct designed to conceal and/or avoid their legal and equitable obligations to terminate policies, inform policyholders, and pay insurance claims of Plaintiff and the Putative Class members she seeks to represent for their wrongful conduct.

18. Plaintiff and all class members were not aware of Defendant's wrongful conduct and could not reasonably have known of the wrongful conduct because of Defendant's acts of concealment. Sandra Wood became aware of the wrongful premium payments and life insurance policy in June 2020.

19. Plaintiff brings this action individually and further seeks certification on behalf of herself and on behalf of the Putative Class members she seeks to represent as a Federal Rule of Civil Procedure Rule 23(b)(3) class defined as follows:

All persons who were holders of a West Virginia certificate of insurance through Defendant, American Bankers Life Assurance Company of Florida, between March 22, 2011 and the present ("Class Period"), whose bank loan was paid off, but automatic insurance premium withdrawals continued through a banking institution.

Excluded from this Class are (1) all present and former directors, officers, and management employees of Defendant, (2) any persons who filed a lawsuit against the Defendant named in this lawsuit involving any of the claims asserted herein, (3) employees of Tiano O'Dell, P.L.L.C., Plaintiff's Class Counsel in the case, any judge assigned to this case and their staff, Defendant's counsel of record, and their immediate families, and (4) all persons who make a timely and proper election to be excluded from the Class.

20. This action is properly brought as a class action for the following reasons:

- a. The Class is numerous and includes a significant number of certificate of insurance holders who are located in diverse geographic regions in West Virginia. Attempting to join and name each class member as a co-plaintiff would be unreasonable and impracticable.
- b. There are questions of law and fact common to the members of the Class that predominate over any individual questions affecting only individual class members. The theories of liability and questions of whether Defendant committed wrongful conduct in failing to communicate with policyholders, failing to terminate the policies when the loan was paid off, failing to cease collecting automatic premium payments, and whether Defendant engaged in dishonest, deceptive, negligent, and intentional conduct to increase corporate profits to the detriment and harm of Plaintiff and the Putative Class; whether Defendant's actions violated the West Virginia Unfair Claims Practices Act; whether Defendant's actions violated the West Virginia Consumer Credit Protection Act; whether Defendant's actions were willful, wanton and reckless; whether Defendant's actions were committed with "actual malice"; whether the Putative Class members are entitled to restitution, disgorgement, equitable relief and damages for injuries, are among those questions common to the Class as a whole, and do not turn on any particular

aspect of any individual's Class member's situation. Defendant acted in a manner that affected all of them similarly.

- c. The claims asserted by Plaintiff are typical of the claims of the members of the Class.
- d. The Plaintiff will fairly and adequately protect the interests of the members of the Class. The interests of the Class are coincident with, and not antagonistic to, those of the Plaintiff. Furthermore, Plaintiff is represented by experienced class action counsel with adequate resources to prosecute this class action.
- e. This class action is an appropriate method of the fair and efficient adjudication of this controversy because:
 - i. There is no special interest by class members in individually controlling the prosecution of separate actions;
 - ii. When Defendant's liability has been adjudicated, claims of all class members can be administered efficiently under the direction of/or as determined by the Court;
 - iii. This action will promote an orderly and expeditious administration and adjudication of the class claims, economies of time, effort, and resources will be fostered, and uniformity of decisions will be insured;
 - iv. Without a class action, Plaintiff and the Class will suffer damages and Defendant's violations of law will proceed without

remedy while Defendants reap and retain the substantial proceeds of its misleading and wrongful conduct; and

v. There will be no insurmountable difficulty in the management of this lawsuit as a class action.

vi. The conduct of this action conserves the resources of the parties and the court system, protects the rights of each member of the Class, and meets all due process requirements.

vii. Certification of the Class with respect to particular common factual and legal issues concerning liability, comparative fault, as well as the necessary and appropriate quantum of punitive damages, or ratio of punitive damages to actual harm, is appropriate under Federal Rule of Civil Procedure 23(c)(4).

viii. The particular common issues of liability, and the quantum of punitive damages or ratio of punitive damages to actual harm, are common to all Class Members.

21. The liability arising from Defendant's conduct may be tried on a class-wide basis, as the trial will focus upon only common questions applicable to the entire members of the Class. Those common questions arise from Defendant's wrongful, deceptive and dishonest conduct in the way it marketed the policies, failing to terminate policies when loans were paid off, continuing to collect premiums for policies that policyholders no longer knew were in force, and covering up and failing to disclose the resulting liability. Common liability issues exist between Defendant and all the members of the Putative Class. Thus, a trial of the Plaintiff's claims will

decide liability issues for all the members of the defined Putative Class.

CAUSES OF ACTION

COUNT I: NEGLIGENCE

22. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

23. Defendant knew, or in the exercise of reasonable care, should have known that the bank loans of the Plaintiff and the Putative Class were paid off, which triggered Defendant's obligation to terminate the policies or at least communicate about the continued premium withdrawals and the fact the policy remained in force, and that Defendant's failure to do so would result in financial harm to Plaintiff and all Putative Class members she seeks to represent.

24. Defendant owed a duty to Plaintiff and all Putative Class members she seeks to represent to conduct insurance business in an honest, legal, ethical, and non-deceptive manner without causing financial harm to Plaintiff, and all the Putative Class members she seeks to represent.

25. Defendant violated its duty to Plaintiff, and all the Putative Class members she seeks to represent, by: (a) failing to use reasonable care and were otherwise negligent in the marketing and sales of its insurance product; (b) failing to perform appropriate and periodic reviews of the lender (bank) accounts to make sure loans were still outstanding; (c) failing to terminate policies when loans were paid off; (d) failing to communicate with policyholders about continued premium withdrawals and other policy information; (e) failing to disclose insurance policies remained in force after the loans were paid off; (f) failing to provide claim assistance to first-party claimants; and (g) failing to properly and timely pay first-party claims and/or reimburse

premium payments.

26. The aforementioned negligent conduct of Defendant directly and proximately caused damage to Plaintiff and all the Class members she seeks to represent. The Plaintiff and the Class members request all damages allowable under the law.

COUNT II BREACH OF CONTRACT

27. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

28. At all relevant times, American Bankers was and has been engaged in the business of insurance, as defined in the West Virginia Unfair Trade Practices Act §33-11-2, et seq. of the West Virginia Code.

29. Plaintiff and members of the Putative Class she seeks to represent were insured under an American Bankers insurance policy purchased to provide coverage to pay off a loan in the event of a covered claim. All the policy premiums were paid, and the terms and conditions of the American Bankers policy were met by Plaintiff and members of the Putative Class she seeks to represent. In short, Plaintiff and members of the Putative Class she seeks to represent performed their duties under the insurance contract.

30. American Bankers owes a duty of good faith and fair dealing to its insured, Plaintiff.

31. American Bankers is not permitted to breach its contract.

32. American Bankers continued to collect premiums and failed to properly pay claims that arose under its credit insurance policies after the loans were paid.

33. American Bankers failed to properly communicate with Plaintiff and

members of the Putative Class she seeks to represent in violation of the contract. Plaintiff, by counsel, then requested a copy of her American Bankers policy on July 2, 2020, and August 10, 2020, in writing, to understand all applicable coverages. To date, American Bankers has never provided a copy of the policy. Moreover, by letter dated July 2, 2020, Plaintiff provided American Bankers with all necessary claim information for American Bankers to pay the \$50,000.00 face amount of the policy. American Banker has, in breach of the contract, failed to pay the face amount of the policy.

34. American Bankers' breached its contracts of insurance with Plaintiff, and members of the Putative Class she seeks to represent by failing to pay the face amount of the policies of insurance once claims arose under those insurance policies after loans associated with policies were paid off. American Bankers also violated its contracts with Plaintiff and members of the Putative Class she seeks to represent by failing to communicate with the first-party policyholders and abide by its other legal contractual obligations to Plaintiff and members of the Putative Class she seeks to represent.

35. As a direct and proximate result of American Bankers' breach of contract, its duty of good faith and fair dealing, and its other legal duties under its credit insurance policies, Plaintiff and members of the Putative Class she seeks to represent were wrongfully deprived of the insurance benefits due and owing, and Plaintiff and members of the Putative Class she seeks to represent were caused to suffer economic and non-economic damages.

36. Plaintiff and members of the Putative Class she seeks to represent are entitled to recover damages from American Bankers for the damages for the breach of contract and breach of its duty of good faith and fair dealing, including their attorney fees and expenses,

net economic loss, and annoyance and inconvenience.

COUNT III COMMON LAW BAD FAITH

37. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

38. Through its actions described herein and its failure to fairly pay claims, American Bankers breached its common-law duty of good faith and fair dealing to Plaintiff and members of the Putative Class she seeks to represent, such that its conduct amounts to “common-law bad faith,” as recognized in the case of *Hayseeds v. American Bankers Fire and Cas. Co.*, 177 W. Va. 323, 352 S.E.2d 73 (1986).

39. Through its actions described herein and its failure to fairly pay claims, American Bankers compelled Plaintiff and members of the Putative Class she seeks to represent to file this lawsuit in order to attempt to recover the amounts due under the subject insurance policies, which amounts include reimbursement of wrongfully collected premium payments.

40. As a direct and proximate result of American Bankers’ “bad faith” and its breach of its common law duty of good faith and fair dealing, Plaintiff is entitled to recover from American Bankers, the economic and non-economic damages permitted under *Hayseeds* when a claimant such as the Plaintiff and members of the Putative Class she seeks to represent “substantially prevail” and Plaintiff and members of the Putative Class she seeks to represent are entitled to an award of his attorney’s fees and costs, net economic losses, interest, annoyance and inconvenience and other general damages.

41. American Bankers acted with actual malice, and in a predetermined and willful way to avoid, delay and/or deny fair payment of the Plaintiff and members of the Putative

Class she seeks to represent with valid claims while all along wrongfully collecting premium payments.

42. As a direct and proximate result of American Bankers' actual malice and willful conduct, Plaintiff and members of the Putative Class she seeks to represent were caused to suffer economic and non-economic damages to Plaintiff, all of which warrants and commands an award of punitive damages, as permitted under Hayseeds.

COUNT IV UNFAIR TRADE PRACTICES

43. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

44. American Bankers marketed its insurance as credit life, disability, and unemployment insurance but continued to collect premiums on such policies long after consumer bank loans were paid off. As such, American Bankers violated *W.Va. Code* §33-11-4(1)(a) and (e), *W.Va. Code* §33-11-4(2), and *W.V.S.C.R* §114-14-4.

45. At all times relevant herein, American Bankers refused to acknowledge and act reasonably and promptly upon communications with respect to the claims of the Plaintiff and members of the Putative Class she seeks to represent, which constitutes direct violations of *W.Va. Code* §33-11-4(9)(b) and *W.V.C.S.R.* §114-14-5. By example, American Bankers failed to acknowledge Plaintiff's request for policy information in or about May of 2020 which required her to retain counsel for help. American Bankers, despite two separate requests in writing, has never responded to requests for copies of the policy or answered questions related to the claim.

46. At all times relevant herein, Defendant failed to adopt and/or implement reasonable standards for the prompt investigation of the claims of Plaintiff and members of the Putative Class

whose claims arose under the American Bankers coverage, and this constitutes a direct violation of W. Va. Code §33-11-4(9)(c).

47. At all times relevant herein, Defendant failed to adopt and/or implement reasonable standards for the prompt investigation into the banks files to determine whether loans had been paid off and whether it was appropriate to continue to collect premiums on certain policies owned by Plaintiff and members of the Putative Class, and this constitutes a direct violation of W. Va. Code §33-11-4 and *W.V.C.S.R.* §114-6-4.

48. Defendant also advertised and marketed its insurance policies to Plaintiff and the Putative Class as policies to ensure that loans would be paid off by credit insurance in the event of a covered event, when in fact, the insurance policies were issued for coverage in excess of loan amounts in violation of *W.Va. Code* §46A-3-109(2) and *W.V.C.S.R.* §114-6-3.1, and the insurance policies also did not terminate when the bank loan related to the insurance policy was paid-off by the policyholder as required by *W.Va. Code* §46A-3-109 and *W.V.C.S.R.* §114-6-4.

49. Defendant was also required by *W.V.C.S.R.* §114-6-6.9 to review each lender's (bank's) account at least every eighteen (18) months to verify that premium payments were still appropriate, whether premium refunds were due, and to identify any claims that should be paid. Defendant violated its legal obligation to review lender bank accounts as required by West Virginia law.

50. At all times relevant herein, American Bankers delayed payment of the claims of Plaintiff and members of the Putative Class and failed to conduct prompt and reasonable investigations based upon all available information, and this constitutes a direct violation of W. Va. Code §33-11-4 and *W.V.S.C.R* §114-14-6.

51. American Bankers compelled the Plaintiff and members of the Putative Class to retain counsel and to file this lawsuit to recover the amounts due under the American Bankers' policies, and this constitutes a direct violation of W. Va. Code §33-11-4(9)(g).

52. The conduct of American Bankers is part of a general business practice and constitutes unfair claims settlement practices under West Virginia law, and specifically under the provisions of *W. Va. Code* §33-11-4(9).

53. As a direct and proximate result of the Defendant's violations of §33-11-4(9) and *W.V.C.S.R.* §114-14-1 *et. seq.*, Plaintiff and members of the Putative Class were deprived of the insurance benefits due and owing, and Plaintiff and members of the Putative Class have sustained other economic and non-economic damages, as well as the costs incurred in pursuing this action, attorney's fees, annoyance and inconvenience, and other general damages.

54. American Bankers acted maliciously and in a willfully predetermined to avoid, delay and/or refuse reasonable payment of the claims of Plaintiff and members of Putative Class in violation of W. Va. Code §33-11-4(9) and *W.V.C.S.R.* §114-14-1 *et. seq.*

55. At all times relevant herein, the Defendant acted with the deliberate and malicious intent to injure and damage Plaintiff and members of the Putative Class in violation of West Virginia law, all of which has proximately caused continuing economic and non-economic damages to the Plaintiff and members of the Putative Class, and which warrants an award of punitive damages.

56. Under the legal precedent established in *Jenkins v. JC Penney Cas. Ins. Co.*, 280 S.E.2d 252 (*W. Va.* 1981), and *Dodrill v. Nationwide Mut. Ins. Co.*, 491 S.E.2d 1 (*W. Va.* 1996), this Court has jurisdiction over this private cause of action for the unfair claims settlement

practices and bad faith of the Defendant, and Plaintiff and the Putative Class are entitled to an award of damages for legal fees and costs, net economic losses, annoyance and inconvenience, general damages and punitive damages pursuant to said cause of action.

COUNT V: UNJUST ENRICHMENT/DISGORGEMENT

57. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

58. As a result of Defendants' wrongful, illegal conduct of continuing to receive automatic premium withdrawal payments and its failure to inform first-party insureds that the policies remained in force after the loans were paid off, Defendant obtained premium payments, but avoided payment of insurance claims of Plaintiff and the numerous proposed Class members. Defendant has wrongfully retained amounts from their illegal conduct which Defendant should have reimbursed to Plaintiff and the Putative Class members, which has unjustly enriched Defendant.

59. Defendant has been unjustly enriched by their own illegal conduct and have failed to make reimbursement. Sandra Wood and class members are entitled to restitution, disgorgement, reimbursement, and other appropriate equitable relief.

VI. VIOLATIONS OF THE WVCCPA

60. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

61. The Defendant is an entity engaged in "trade" or "commerce", as defined by *W.Va. Code* §46A-6-102(6) of the West Virginia Consumer Credit and Protection Act

(“WVCCPA”), codified at *W.Va. Code* §46A-1-101 *et. seq.*, offering for sale and distribution goods, including credit insurance, to “consumers” in the State of West Virginia.

62. *W.Va. Code* §46A-3-109 requires that any type of credit insurance be sold by an “individual licensed under the laws of [West Virginia] to sell insurance. Defendant used unlicensed agents to sell credit insurance to policyholders, including Plaintiff’s decedent and the Putative Class she seeks to represent.

63. Defendant also advertised and marketed its insurance policies to Plaintiff and the Putative Class as policies to ensure that loans would be paid off by credit insurance in the event of a covered event, when in fact, the insurance policies were issued for coverage in excess of loan amounts in violation of *W.Va. Code* §46A-3-109(2) and *W.V.C.S.R.* §114-6-3.1, and the insurance policies also did not terminate when the bank loan related to the insurance policy was paid-off by the policyholder as required by *W.Va. Code* §46A-3-109 and *W.V.C.S.R.* §114-6-4.

64. Defendant was also required by *W.V.C.S.R.* §114-6-6.9 to review each lender’s (bank’s) account at least every eighteen (18) months to verify that premium payments were still appropriate, whether premium refunds were due, and to identify any claims that should be paid. Defendant violated its legal obligation to review lender bank accounts as required by West Virginia law

65. Defendant violated the West Virginia Consumer Credit Protection Act by employing unfair and deceptive advertising and marketing practices to sell its credit insurance policies in violation of *W.Va. Code* §46A-6-102(1) and (7)(A), (B), (I), (L), (M) and (N).

66. Defendant’s conduct is of a kind which has the natural consequence of causing aggravation, annoyance, and inconvenience of which the Defendant knew or reasonably

should have known would be the natural consequences of said conduct. Accordingly, where intent or willfulness is required to hold Defendant liable for their conduct, intent or willfulness may be implied by the nature of said conduct.

67. Defendant is liable for the acts of its employees, agents, representatives, coconspirators, affiliates, and related entities under the theories of respondent superior, agency, conspiracy, joint venture, and or joint enterprise. Accordingly, Defendant is equally, co-extensively, and jointly and severally liable for each and every act of its employees, agents, representatives, co-conspirators, and related entities.

68. The Defendant's conduct set forth herein has caused the Plaintiff and Putative Class members undue and unreasonable aggravation, annoyance, and inconvenience by having to bring suit due to the illegal conduct of the Defendant.

69. As a direct and proximate result of Defendant's conduct, Plaintiff was forced to retain counsel, thereby incurring attorney fees and costs.

70. As a further direct and proximate result of Defendant's violations of the West Virginia Consumer Credit Protection Act, Plaintiff, and the Putative Class have suffered economic harm and are also entitled to treble damages pursuant to *W. Va. Code* §46A-3-109 (b)(8).

PRAYER FOR RELIEF

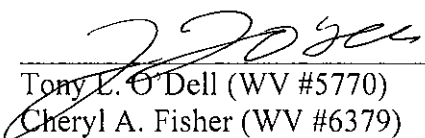
WHEREFORE, Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, her deceased husband, on behalf of herself and all those similarly situated, prays that this Honorable Court grant the following relief from Defendant: compensatory damages, treble damages, punitive damages, which said sums are in excess of \$5,000,000, attorneys' fees and costs, pre-judgment interest, post-judgment interest as provided by law, suitable equitable relief,

restitution, disgorgement by Defendant of all profits, and for such other relief as may be proper under the law.

PLAINTIFF FURTHER DEMANDS A TRIAL BY JURY.

**SANDRA WOOD, individually and as
ADMINISTRATRIX of the ESTATE of
MICHAEL WOODS, deceased,**

By counsel



Tony L. O'Dell (WV #5770)
Cheryl A. Fisher (WV #6379)
TIANO O'DELL, PLLC
Post Office Box 11830
Charleston, WV 25339
(304) 720-6700
todell@tolawfirm.com
cfisher@tolawfirm.com
Counsel for plaintiff

Civil Action No. 5:21-cv-00180

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

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
 Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, deceased
(b) County of Residence of First Listed Plaintiff Raleigh
 (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
 Tony L. O'Dell, Tiano O'Dell, PLLC
 P.O. Box 11830, Charleston, WV 25339

DEFENDANTS
 American Bankers Life Assurance Company
 of F.L.O.R.I.D.A.
 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)
 (For Diversity Cases Only)
 Citizen of This State PTF 1 DEF 1
 Citizen of Another State 2 2
 Citizen or Subject of a Foreign Country 3 3
 Incorporated or Principal Place of Business In This State PTF 4 DEF 4
 Incorporated and Principal Place of Business In Another State 5 5
 Foreign Nation 6 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	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<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	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):
28 USC § 1332 (a)(2) + 28 USC § 1332 (a)
 Brief description of cause:
Class action for breach of insurance contract and UTPA - Unfair Trade Practices Act

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 3-22-2021 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY
 RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT 2



Notice of Service of Process

LDD / ALL
Transmittal Number: 23034718
Date Processed: 04/09/2021

Primary Contact: Ms. Mona Cohen
Assurant
11222 Quail Roost Dr
Miami, FL 33157-6596

Entity: American Bankers Life Assurance Company of Florida
Entity ID Number 0651570

Entity Served: American Bankers Life Assurance Company of Florida

Title of Action: Sandra Wood vs. American Bankers Life Assurance Company of F.L.O.R.I.D.A.

Matter Name/ID: Sandra Wood vs. American Bankers Life Assurance Company of F.L.O.R.I.D.A.
(11129677)

Document(s) Type: Summons/Complaint

Nature of Action: Contract

Court/Agency: Raleigh County Circuit Court, WV

Case/Reference No: CC-41-2021-C-93

Jurisdiction Served: West Virginia

Date Served on CSC: 04/08/2021

Answer or Appearance Due: 30 Days

Originally Served On: Secretary Of State

How Served: Certified Mail

Sender Information: Tony O'Dell
304-720-6700

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

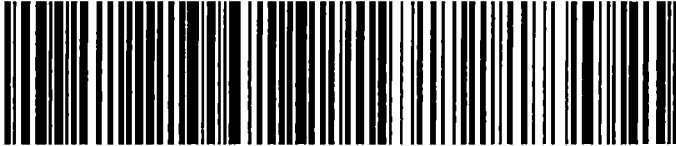
To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



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Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

AMERICAN BANKERS LIFE ASSURANCE COMPANY OF
FLORIDA
Corporation Service Company
209 West Washington Street
Charleston, WV 25302

Control Number: 273432

Defendant: AMERICAN BANKERS LIFE
ASSURANCE COMPANY OF
FLORIDA
209 West Washington Street
Charleston, WV 25302 US

Agent: Corporation Service Company

County: Raleigh

Civil Action: 21-C-93

Certified Number: 92148901125134100003106788

Service Date: 4/5/2021

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your authorized insurance company.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your authorized insurance company as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

SUMMONS

E-FILED | 3/31/2021 2:10 PM
CC-41-2021-C-93
Raleigh County Circuit Clerk
Paul H. Flanagan

IN THE CIRCUIT OF RALEIGH WEST VIRGINIA

Sandra Kaye Wood v. American Bankers Life Assurance Company of F.L.O.R.I.D.A.

Service Type: Plaintiff - Secretary of State

NOTICE TO: American Bankers Life Assurance Company of F.L.O.R.I.D.A., c/o Corporation Service Company, 209 W. Washington Street, Charleston, WV 25302

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Tony O'Dell, PO Box 11830, Charleston, WV 25339

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

3/31/2021 2:10:05 PM
Date

/s/ Paul H. Flanagan
Clerk

RETURN ON SERVICE:

Return receipt of certified mail received in this office on _____

I certify that I personally delivered a copy of the Summons and Complaint to _____

Not Found in Bailiwick

Date

Server's Signature

ACCEPTED FOR
SERVICE OF PROCESS
2021 APR -5 P 3:49
SECRETARY OF STATE
STATE OF WEST VIRGINIA

E-FILED | 3/31/2021 2:10 PM
CC-41-2021-C-93
Raleigh County Circuit Clerk
Paul H. Flanagan

COVER SHEET

GENERAL INFORMATION

IN THE CIRCUIT COURT OF RALEIGH COUNTY WEST VIRGINIA
Sandra Kaye Wood v. American Bankers Life Assurance Company of F.L.O.R.I.D.A.

First Plaintiff: Business Individual Government Other
First Defendant: Business Individual Government Other

Judge: Darl Poling

COMPLAINT INFORMATION

Case Type: Civil **Complaint Type:** Contract

Origin: Initial Filing Appeal from Municipal Court Appeal from Magistrate Court

Jury Trial Requested: Yes No **Case will be ready for trial by:** _____

Mediation Requested: Yes No

Substantial Hardship Requested: Yes No

- Do you or any of your clients or witnesses in this case require special accommodations due to a disability?
 - Wheelchair accessible hearing room and other facilities
 - Interpreter or other auxiliary aid for the hearing impaired
 - Reader or other auxiliary aid for the visually impaired
 - Spokesperson or other auxiliary aid for the speech impaired
 - Other: _____

- I am proceeding without an attorney
- I have an attorney: Tony O'Dell, PO Box 11830, Charleston, WV 25339

SERVED PARTIES

Name: American Bankers Life Assurance Company of F.L.O.R.I.D.A.

Address: c/o Corporation Service Company 209 W. Washington Street, Charleston WV 25302

Days to Answer: 30 **Type of Service:** Plaintiff - Secretary of State

E-FILED | 3/31/2021 2:10 PM
CC-41-2021-C-93
Raleigh County Circuit Clerk
Paul H. Flanagan

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

SANDRA WOOD, individually and as
ADMINISTRATRIX of the ESTATE of
MICHAEL WOOD, deceased, and
on behalf of all others similarly situated,

PLAINTIFF,

v.

Civil Action No: _____
Judge _____

AMERICAN BANKERS LIFE ASSURANCE
COMPANY of F.L.O.R.I.D.A.

DEFENDANT.

COMPLAINT

Now comes the Plaintiff, Sandra Wood, individually, as Administratrix of the Estate of Michael Wood, Deceased, and on behalf of all others similarly situated, and for the cause of action herein, states the following:

Introduction

1. Plaintiff, Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, her deceased husband, brings this suit on behalf of herself, the Estate of Michael Wood, and all persons who were holders of a West Virginia certificate of insurance through Defendant, American Bankers Life Assurance Company of Florida, between March 31, 2011, and the present ("Class Period"), whose bank loan was paid off, but automatic insurance premium withdrawals continued through a banking institution.

2. The Defendant, American Bankers Life Assurance Company of Florida (hereinafter referred to as American Bankers), is an insurance company that sells policies of life and disability insurance as part of consumer loan transactions through banks. The policies of insurance are marketed as insurance to pay off consumer bank loans in the event the creditor

(policyholder) dies, becomes disabled, or unemployed, during the term of the loan. American Bankers requires banks who help it secure the life, disability, and unemployment policies from bank customers, including Plaintiff and members of the putative class, to set up automatic premium withdrawal for the monthly premium payments from the policyholder's bank account. Once the insurance policy is in place, American Bankers fails to send policy updates or premium notices to the insureds, but American Bankers continues to collect premium payments from Plaintiff and the putative class members. American Bankers takes these actions to increase corporate profits by having policyholders continue to make premium payments but not submit claims or otherwise be aware that an insurance policy remains effective in violation of the law, in violation of its own written policies, in violation of ethical standards of good faith and fair dealing, and without regard to financial losses to its policyholders.

The Parties

3. Sandra Wood is now and has been at all times alleged herein a resident of Raleigh County, West Virginia. Michael Wood, at the time of entering into a policy of life insurance with American Bankers Life Insurance Company of Florida on May 1, 1996, and at the time of his death on February 8, 2018, was a resident of 188 Allenwood Lane, Shady Springs, Raleigh County, West Virginia. Sandra Wood is a third-party beneficiary of Michael Wood's insurance policy with American Bankers Life Insurance Company of Florida.

4. The Defendant, American Bankers Life Assurance Company of Florida (hereinafter referred to as American Bankers), is a Florida corporation doing business in Raleigh County, West Virginia. Defendant is registered and licensed to do business in the State of West Virginia. Defendant sold a credit life policy to Michael Wood in Raleigh County, West Virginia.

Background Facts

5. Defendant sells life, disability, and unemployment insurance to bank customers through bank loan officers as part of bank loan transactions. Plaintiff and the putative class obtained loans from banks located in West Virginia. As part of the loan transaction, bank loan officers solicited and sold Plaintiff and putative class members American Bankers life, disability and/or unemployment insurance policies marketed to pay off loans in the event of a covered claim.

6. On or about March 30, 1994, the Plaintiff's decedent, Michael Wood, obtained a loan for Forty-Seven Thousand Nine Hundred Forty-Five Dollars (\$47,945.00) from Raleigh National Bank (now City National Bank) for the purchase of real estate in Raleigh County, West Virginia. The bank loan was for a term of 30 years, with 360 monthly payments.

7. Upon placement of an American Bankers insurance policy, Defendant required banks to set up automatic premium withdrawal from the putative class members', including Plaintiff's, bank accounts to pay the insurance premiums automatically.

8. On or about March 30, 1994, Raleigh National (City National), acting as an agent for American Bankers, offered Michael Wood credit life insurance for the loan described in the preceding paragraph. Defendant took automatic premium withdrawals of \$17.50 deducted monthly from Michael Wood's Raleigh National Bank (now City National Bank) account.

9. Defendant sent Plaintiff and the putative class members a certificate of insurance. By example, the policy with ID Number 00000000043932-0 was issued by Defendant American Bankers to Plaintiff. The insurance transaction described is representative of the way Defendant American Bankers procured and placed its insurance policies with bank customers.

10. Upon information and belief, American Bankers used bank loan officers throughout West Virginia as unlicensed insurance agents to sell its insurance products to bank customers, including Plaintiff and the putative class members.

11. Once a policy of insurance was placed with a bank customer, Defendant American Bankers would issue a certificate of insurance but not provide a copy of the insurance policy itself.

12. Once bank customers paid off their loans, American Bankers, unbeknown to the bank customers, would continue to collect the automatic premium withdrawals and never communicate with its insureds, including Plaintiff and putative class members, about the continued premium withdrawals or the policy.

13. West Virginia law requires that all credit life and credit accident and sickness insurance be terminated by the insurer, in this case, Defendant, when indebtedness is paid off or discharged, and provide any refund due and owing to the policyholder. *See W. V.C.S.R. §114-6-4*. Defendant did not terminate credit insurance policies of Plaintiff and the Putative Class as required by West Virginia law.

14. West Virginia law also requires the insurer, in this case, Defendant, to review the bank accounts of its policyholders to determine if the policy needed to be terminated, premiums adjusted, or claims paid. Defendant did not properly review bank accounts of Plaintiff and members of the Putative Class.

15. Due to the lack of communication or proper review of accounts by American Bankers and the passage of time, its insureds, including Plaintiff and the putative class members, were unaware that an American Bankers policy existed, remained in force, and that

premium payments were being automatically withdrawn every month. By way of example, on or about May 6, 2009, Michael Wood paid off the March 30, 1994 loan agreement in full, but American Bankers did not cease the automatic premium withdrawals, terminate the policy, nor did it communicate with Michael Wood regarding the continued automatic premium withdrawals or provide any information regarding the policy remaining in force after the loan was paid despite its legal and good faith requirements to do so. As a result, Plaintiff continued to make premium payments for the policy for more than ten years after the loan was paid off.

16. American Bankers intentionally and deliberately failed to properly communicate about existing policies or continued premium withdrawals to Plaintiff and the putative Class members in order to increase profits by avoiding claims on existing policies while continuing to collect premium payments unbeknownst to policyholders and beneficiaries.

17. Throughout the Class Period and to the present, Defendant has engaged in a companywide course of conduct designed to conceal and/or avoid their legal and equitable obligations to terminate policies, inform policyholders, and pay insurance claims of Plaintiff and the Putative Class members she seeks to represent for their wrongful conduct.

18. Plaintiff and all class members were not aware of Defendant's wrongful conduct and could not reasonably have known of the wrongful conduct because of Defendant's acts of concealment. Sandra Wood became aware of the wrongful premium payments and life insurance policy in June 2020.

19. Plaintiff brings this action individually and further seeks certification on behalf of herself and on behalf of the Putative Class members she seeks to represent as a West Virginia Rule of Civil Procedure Rule 23(b)(3) class defined as follows:

All persons who were holders of a West Virginia certificate of insurance through Defendant, American Bankers Life Assurance Company of Florida, between March 31, 2011 and the present (“Class Period”), whose bank loan was paid off, but automatic insurance premium withdrawals continued through a banking institution.

Excluded from this Class are (1) all present and former directors, officers, and management employees of Defendant, (2) any persons who filed a lawsuit against the Defendant named in this lawsuit involving any of the claims asserted herein, (3) employees of Tiano O’Dell, P.L.L.C., Plaintiff’s Class Counsel in the case, any judge assigned to this case and their staff; Defendant’s counsel of record, and their immediate families, and (4) all persons who make a timely and proper election to be excluded from the Class.

20. This action is properly brought as a class action for the following reasons:
 - a. The Class is numerous and includes a significant number of certificate of insurance holders who are located in diverse geographic regions in West Virginia. Attempting to join and name each class member as a co-plaintiff would be unreasonable and impracticable.
 - b. There are questions of law and fact common to the members of the Class that predominate over any individual questions affecting only individual class members. The theories of liability and questions of whether Defendant committed wrongful conduct in failing to communicate with policyholders, failing to terminate the policies when the loan was paid off, failing to cease collecting automatic premium payments, and whether Defendant engaged in dishonest,

deceptive, negligent, and intentional conduct to increase corporate profits to the detriment and harm of Plaintiff and the Putative Class; whether Defendant's actions violated the West Virginia Unfair Claims Practices Act; whether Defendant's actions violated the West Virginia Consumer Credit Protection Act; whether Defendant's actions were willful, wanton and reckless; whether Defendant's actions were committed with "actual malice"; whether the Putative Class members are entitled to restitution, disgorgement, equitable relief and damages for injuries, are among those questions common to the Class as a whole, and do not turn on any particular aspect of any individual's Class member's situation. Defendant acted in a manner that affected all of them similarly.

- c. The claims asserted by Plaintiff are typical of the claims of the members of the Class.
- d. The Plaintiff will fairly and adequately protect the interests of the members of the Class. The interests of the Class are coincident with, and not antagonistic to, those of the Plaintiff. Furthermore, Plaintiff is represented by experienced class action counsel with adequate resources to prosecute this class action.
- e. This class action is an appropriate method of the fair and efficient adjudication of this controversy because:
 - i. There is no special interest by class members in individually

controlling the prosecution of separate actions;

ii. When Defendant's liability has been adjudicated, claims of all class members can be administered efficiently under the direction of/or as determined by the Court;

iii. This action will promote an orderly and expeditious administration and adjudication of the class claims, economies of time, effort, and resources will be fostered, and uniformity of decisions will be insured;

iv. Without a class action, Plaintiff and the Class will suffer damages and Defendant's violations of law will proceed without remedy while Defendant reaps and retain the substantial proceeds of its misleading and wrongful conduct; and

v. There will be no insurmountable difficulty in the management of this lawsuit as a class action.

vi. The conduct of this action conserves the resources of the parties and the court system, protects the rights of each member of the Class, and meets all due process requirements.

vii. Certification of the Class with respect to particular common factual and legal issues concerning liability, comparative fault, as well as the necessary and appropriate quantum of punitive damages, or ratio of punitive damages to actual harm, is appropriate under West Virginia Rule of Civil Procedure 23(c)(4).

viii. The particular common issues of liability, and the quantum of punitive damages or ratio of punitive damages to actual harm, are common to all Class Members.

21. The liability arising from Defendant's conduct may be tried on a class-wide basis, as the trial will focus upon only common questions applicable to the entire members of the Class. Those common questions arise from Defendant's wrongful, deceptive and dishonest conduct in the way it marketed the policies, failing to terminate policies when loans were paid off, continuing to collect premiums for policies that policyholders no longer knew were in force, and covering up and failing to disclose the resulting liability. Common liability issues exist between Defendant and all the members of the Putative Class. Thus, a trial of the Plaintiff's claims will decide liability issues for all the members of the defined Putative Class.

CAUSES OF ACTION

COUNT I: NEGLIGENCE

22. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

23. Defendant knew, or in the exercise of reasonable care, should have known that the bank loans of the Plaintiff and the Putative Class were paid off, which triggered Defendant's obligation to terminate the policies or at least communicate about the continued premium withdrawals and the fact the policy remained in force, and that Defendant's failure to do so would result in financial harm to Plaintiff and all Putative Class members she seeks to represent.

24. Defendant owed a duty to Plaintiff and all Putative Class members she seeks to represent to conduct insurance business in an honest, legal, ethical, and non-deceptive manner

without causing financial harm to Plaintiff, and all the Putative Class members she seeks to represent.

25. Defendant violated its duty to Plaintiff, and all the Putative Class members she seeks to represent, by: (a) failing to use reasonable care and were otherwise negligent in the marketing and sales of its insurance product; (b) failing to perform appropriate and periodic reviews of the lender (bank) accounts to make sure loans were still outstanding; (c) failing to terminate policies when loans were paid off; (d) failing to communicate with policyholders about continued premium withdrawals and other policy information; (e) failing to disclose insurance policies remained in force after the loans were paid off; (f) failing to provide claim assistance to first-party claimants; and (g) failing to properly and timely pay first-party claims and/or reimburse premium payments.

26. The aforementioned negligent conduct of Defendant directly and proximately caused damage to Plaintiff and all the Class members she seeks to represent. The Plaintiff and the Class members request all damages allowable under the law.

COUNT II BREACH OF CONTRACT

27. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

28. At all relevant times, American Bankers was and has been engaged in the business of insurance, as defined in the West Virginia Unfair Trade Practices Act §33-11-2, et seq. of the West Virginia Code.

29. Plaintiff and members of the Putative Class she seeks to represent were insured under an American Bankers insurance policy purchased to provide coverage to pay off a

loan in the event of a covered claim. All the policy premiums were paid, and the terms and conditions of the American Bankers policy were met by Plaintiff and members of the Putative Class she seeks to represent. In short, Plaintiff and members of the Putative Class she seeks to represent performed their duties under the insurance contract.

30. American Bankers owes a duty of good faith and fair dealing to its insured, Plaintiff.

31. American Bankers is not permitted to breach its contract.

32. American Bankers continued to collect premiums and failed to properly pay claims that arose under its credit insurance policies after the loans were paid.

33. American Bankers failed to properly communicate with Plaintiff and members of the Putative Class she seeks to represent in violation of the contract. Plaintiff, by counsel, then requested a copy of her American Bankers policy on July 2, 2020, and August 10, 2020, in writing, to understand all applicable coverages. To date, American Bankers has never provided a copy of the policy. Moreover, by letter dated July 2, 2020, Plaintiff provided American Bankers with all necessary claim information for American Bankers to pay the \$50,000.00 face amount of the policy. American Bankers has, in breach of the contract, failed to pay the face amount of the policy.

34. American Bankers' breached its contracts of insurance with Plaintiff, and members of the Putative Class she seeks to represent by failing to pay the face amount of the policies of insurance once claims arose under those insurance policies after loans associated with policies were paid off. American Bankers also violated its contracts with Plaintiff and members of the Putative Class she seeks to represent by failing to communicate with the first-party

policyholders and abide by its other legal contractual obligations to Plaintiff and members of the Putative Class she seeks to represent.

35. As a direct and proximate result of American Bankers' breach of contract, its duty of good faith and fair dealing, and its other legal duties under its credit insurance policies, Plaintiff and members of the Putative Class she seeks to represent were wrongfully deprived of the insurance benefits due and owing, and Plaintiff and members of the Putative Class she seeks to represent were caused to suffer economic and non-economic damages.

36. Plaintiff and members of the Putative Class she seeks to represent are entitled to recover damages from American Bankers for the damages for the breach of contract and breach of its duty of good faith and fair dealing, including their attorney fees and expenses, net economic loss, and annoyance and inconvenience.

COUNT III COMMON LAW BAD FAITH

37. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

38. Through its actions described herein and its failure to fairly pay claims, American Bankers breached its common-law duty of good faith and fair dealing to Plaintiff and members of the Putative Class she seeks to represent, such that its conduct amounts to "common-law bad faith," as recognized in the case of *Hayseeds v. American Bankers Fire and Cas. Co.*, 177 W. Va. 323, 352 S.E.2d 73 (1986).

39. Through its actions described herein and its failure to fairly pay claims, American Bankers compelled Plaintiff and members of the Putative Class she seeks to represent to file this lawsuit in order to attempt to recover the amounts due under the subject insurance

policies, which amounts include reimbursement of wrongfully collected premium payments.

40. As a direct and proximate result of American Bankers' "bad faith" and its breach of its common law duty of good faith and fair dealing, Plaintiff is entitled to recover from American Bankers, the economic and non-economic damages permitted under *Hayseeds* when a claimant such as the Plaintiff and members of the Putative Class she seeks to represent "substantially prevail" and Plaintiff and members of the Putative Class she seeks to represent are entitled to an award of his attorney's fees and costs, net economic losses, interest, annoyance and inconvenience and other general damages.

41. American Bankers acted with actual malice, and in a predetermined and willful way to avoid, delay and/or deny fair payment of the Plaintiff and members of the Putative Class she seeks to represent with valid claims while all along wrongfully collecting premium payments.

42. As a direct and proximate result of American Bankers' actual malice and willful conduct, Plaintiff and members of the Putative Class she seeks to represent were caused to suffer economic and non-economic damages to Plaintiff, all of which warrants and commands an award of punitive damages, as permitted under *Hayseeds*.

COUNT IV UNFAIR TRADE PRACTICES

43. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

44. American Bankers marketed its insurance as credit life, disability, and unemployment insurance but continued to collect premiums on such policies long after consumer bank loans were paid off. As such, American Bankers violated *W. Va. Code* §33-11-4(1)(a) and

(e), *W. Va. Code* §33-11-4(2), and *W.V.S.C.R* §114-14-4.

45. At all times relevant herein, American Bankers refused to acknowledge and act reasonably and promptly upon communications with respect to the claims of the Plaintiff and members of the Putative Class she seeks to represent, which constitutes direct violations of *W. Va. Code* §33-11-4(9)(b) and *W.V.C.S.R.* §114-14-5.

46. American Bankers failed to acknowledge Plaintiff's request for policy information in or about May of 2020 which required her to retain counsel for help. American Bankers, despite two separate requests in writing, has never responded to requests for copies of the policy or answered questions related to the claim.

47. At all times relevant herein, Defendant failed to adopt and/or implement reasonable standards for the prompt investigation of the claims of Plaintiff and members of the Putative Class whose claims arose under the American Bankers coverage, and this constitutes a direct violation of *W. Va. Code* §33-11-4(9)(c).

48. At all times relevant herein, Defendant failed to adopt and/or implement reasonable standards for the prompt investigation into the banks files to determine whether loans had been paid off and whether it was appropriate to continue to collect premiums on certain policies owned by Plaintiff and members of the Putative Class, and this constitutes a direct violation of *W. Va. Code* §33-11-4 and *W.V.C.S.R.* §114-6-4.

49. Defendant also advertised and marketed its insurance policies to Plaintiff and the Putative Class as policies to ensure that loans would be paid off by credit insurance in the event of a covered event, when in fact, the insurance policies were issued for coverage in excess of loan amounts in violation of *W. Va. Code* §46A-3-109(2) and *W.V.C.S.R.* §114-6-3.1, and the

insurance policies also did not terminate when the bank loan related to the insurance policy was paid-off by the policyholder as required by *W.Va. Code* §46A-3-109 and *W.V.C.S.R.* §114-6-4.

50. Defendant was also required by *W.V.C.S.R.* §114-6-6.9 to review each lender's (bank's) account at least every eighteen (18) months to verify that premium payments were still appropriate, whether premium refunds were due, and to identify any claims that should be paid. Defendant violated its legal obligation to review lender bank accounts as required by West Virginia law.

51. At all times relevant herein, American Bankers delayed payment of the claims of Plaintiff and members of the Putative Class and failed to conduct prompt and reasonable investigations based upon all available information, and this constitutes a direct violation of *W.Va. Code* §33-11-4 and *W.V.S.C.R* §114-14-6.

52. American Bankers compelled the Plaintiff and members of the Putative Class to retain counsel and to file this lawsuit to recover the amounts due under the American Bankers' policies, and this constitutes a direct violation of *W. Va. Code* §33-11-4(9)(g).

53. The conduct of American Bankers is part of a general business practice and constitutes unfair claims settlement practices under West Virginia law, and specifically under the provisions of *W. Va. Code* §33-11-4(9).

54. As a direct and proximate result of the Defendant's violations of §33-11-4(9) and *W.V.C.S.R.* §114-14-1 *et. seq.*, Plaintiff and members of the Putative Class were deprived of the insurance benefits due and owing, and Plaintiff and members of the Putative Class have sustained other economic and non-economic damages, as well as the costs incurred in pursuing this action, attorney's fees, annoyance and inconvenience, and other general damages.

55. American Bankers acted maliciously and in a willfully predetermined to avoid, delay and/or refuse reasonable payment of the claims of Plaintiff and members of Putative Class in violation of W. Va. Code §33-11-4(9) and *W.V.C.S.R. §114-14-1 et. seq.*

56. At all times relevant herein, the Defendant acted with the deliberate and malicious intent to injure and damage Plaintiff and members of the Putative Class in violation of West Virginia law, all of which has proximately caused continuing economic and non-economic damages to the Plaintiff and members of the Putative Class, and which warrants an award of punitive damages.

57. Under the legal precedent established in *Jenkins v. JC Penney Cas. Ins. Co.*, 280 S.E.2d 252 (*W.Va.* 1981), and *Dodrill v. Nationwide Mut. Ins. Co.*, 491 S.E.2d 1 (*W.Va.* 1996), this Court has jurisdiction over this private cause of action for the unfair claims settlement practices and bad faith of the Defendant, and Plaintiff and the Putative Class are entitled to an award of damages for legal fees and costs, net economic losses, annoyance and inconvenience, general damages and punitive damages pursuant to said cause of action.

COUNT V: UNJUST ENRICHMENT/DISGORGEMENT

58. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

59. As a result of Defendants' wrongful, illegal conduct of continuing to receive automatic premium withdrawal payments and its failure to inform first-party insureds that the policies remained in force after the loans were paid off, Defendant obtained premium payments, but avoided payment of insurance claims of Plaintiff and the numerous proposed Class members. Defendant has wrongfully retained amounts from their illegal conduct which Defendant should

have reimbursed to Plaintiff and the Putative Class members, which has unjustly enriched Defendant.

60. Defendant has been unjustly enriched by their own illegal conduct and have failed to make reimbursement. Sandra Wood and class members are entitled to restitution, disgorgement, reimbursement, and other appropriate equitable relief.

COUNT VI: VIOLATIONS OF THE WVCCPA

61. Plaintiff re-alleges and incorporates by reference the previous paragraphs as though separately set forth herein.

62. The Defendant is an entity engaged in “trade” or “commerce”, as defined by *W.Va. Code* §46A-6-102(6) of the West Virginia Consumer Credit and Protection Act (“WVCCPA”), codified at *W.Va. Code* §46A-1-101 *et. seq.*, offering for sale and distribution goods, including credit insurance, to “consumers” in the State of West Virginia.

63. *W.Va. Code* §46A-3-109 requires that any type of credit insurance be sold by an “individual licensed under the laws of [West Virginia] to sell insurance. Defendant used unlicensed agents to sell credit insurance to policyholders, including Plaintiff’s decedent and the Putative Class she seeks to represent.

64. Defendant also advertised and marketed its insurance policies to Plaintiff and the Putative Class as policies to ensure that loans would be paid off by credit insurance in the event of a covered event, when in fact, the insurance policies were issued for coverage in excess of loan amounts in violation of *W.Va. Code* §46A-3-109(2) and *W.V.C.S.R.* §114-6-3.1, and the insurance policies also did not terminate when the bank loan related to the insurance policy was paid-off by the policyholder as required by *W.Va. Code* §46A-3-109 and *W.V.C.S.R.* §114-6-4.

65. Defendant was also required by *W.V.C.S.R.* §114-6-6.9 to review each lender's (bank's) account at least every eighteen (18) months to verify that premium payments were still appropriate, whether premium refunds were due, and to identify any claims that should be paid. Defendant violated its legal obligation to review lender bank accounts as required by West Virginia law

66. Defendant violated the West Virginia Consumer Credit Protection Act by employing unfair and deceptive advertising and marketing practices to sell its credit insurance policies in violation of *W. Va. Code* §46A-6-102(1) and (7)(A), (B), (I), (L), (M) and (N).

67. Defendant's conduct is of a kind which has the natural consequence of causing aggravation, annoyance, and inconvenience of which the Defendant knew or reasonably should have known would be the natural consequences of said conduct. Accordingly, where intent or willfulness is required to hold Defendant liable for their conduct, intent or willfulness may be implied by the nature of said conduct.

68. Defendant is liable for the acts of its employees, agents, representatives, coconspirators, affiliates, and related entities under the theories of respondent superior, agency, conspiracy, joint venture, and or joint enterprise. Accordingly, Defendant is equally, co-extensively, and jointly and severally liable for each and every act of its employees, agents, representatives, co-conspirators, and related entities.

69. The Defendant's conduct set forth herein has caused the Plaintiff and Putative Class members undue and unreasonable aggravation, annoyance, and inconvenience by having to bring suit due to the illegal conduct of the Defendant.

70. As a direct and proximate result of Defendant's conduct, Plaintiff was forced to retain counsel, thereby incurring attorney fees and costs.

71. As a further direct and proximate result of Defendant's violations of the West Virginia Consumer Credit Protection Act, Plaintiff, and the Putative Class have suffered economic harm and are also entitled to treble damages pursuant to *W. Va. Code* §46A-3-109 (b)(8).

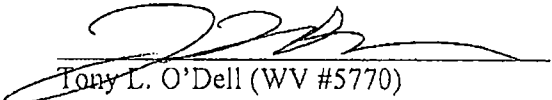
PRAYER FOR RELIEF

WHEREFORE, Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, her deceased husband, on behalf of herself and all those similarly situated, prays that this Honorable Court grant the following relief from Defendant: compensatory damages, treble damages, punitive damages, attorneys' fees and costs, pre-judgment interest, post-judgment interest as provided by law, suitable equitable relief, restitution, disgorgement by Defendant of all profits, and for such other relief as may be proper under the law.

PLAINTIFF FURTHER DEMANDS A TRIAL BY JURY.

**SANDRA WOOD, individually and as
ADMINISTRATRIX of the ESTATE of
MICHAEL WOOD, deceased,**

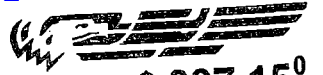
By counsel



Tony L. O'Dell (WV #5770)
Cheryl A. Fisher (WV #6379)
TIANO O'DELL, PLLC
Post Office Box 11830
Charleston, WV 25339
(304) 720-6700
todell@tolawfirm.com
cfisher@tolawfirm.com
Counsel for plaintiff

CERTIFIED MAIL

U.S. POSTAGE >> PITNEY BOWES



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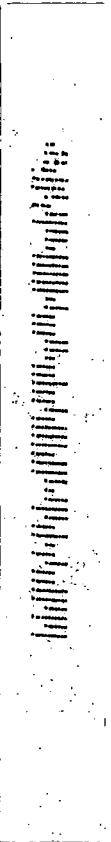
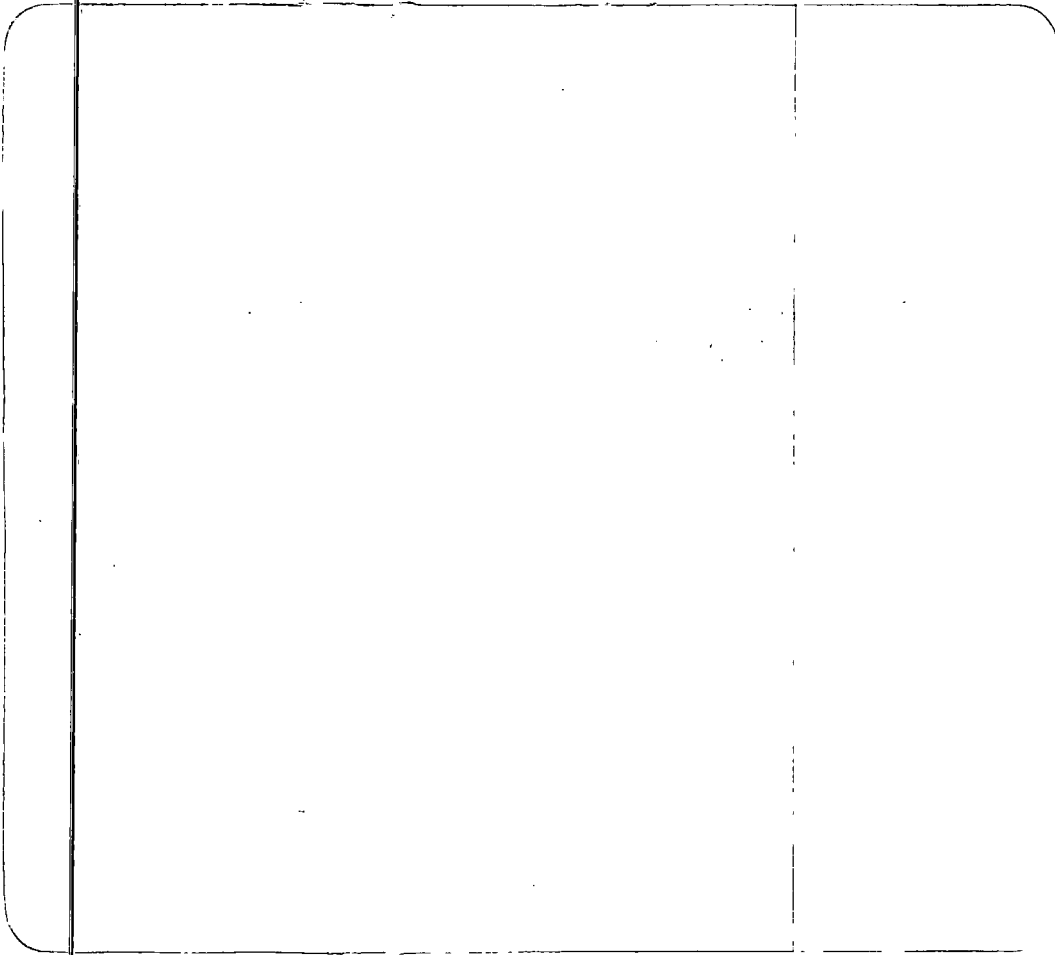


EXHIBIT 3

Case Docket Entries

CC-41-2021-C-93

Court: **Circuit** County: **41 - Raleigh** Created Date: **3/31/2021** Security Level: **Public**
 Judge: **Darl Poling** Case Type: **Civil** Case Sub-Type: **Contract** Status: **Open**

Related Cases:

Style: **Sandra Kaye Wood v. American Bankers Life Assurance Company of F.L.O.R.I.D.A.**

	<u>Entered Date</u>	<u>Event</u>	<u>Ref. Code</u>	<u>Description</u>
1	3/31/2021 2:10:10 PM	E-Filed		Complaint
	1-1 3/31/2021	Civil Case Information Statement		
	1-2 3/31/2021	Complaint - Complaint		
	1-3 3/31/2021	Supporting Document - Summons		
	1-4 3/31/2021	Transmittal		
	1-5 3/31/2021	Summons		
2	3/31/2021 2:10:10 PM	Judge Assigned	J-41004	Darl Poling
3	3/31/2021 2:10:10 PM	Party Added	P-001	Sandra Kaye Wood
4	3/31/2021 2:10:10 PM	Party Added	D-001	American Bankers Life Assurance Company of F.L.O.R.I.D.A.
5	3/31/2021 2:10:10 PM	Attorney Listed	P-001	A-5770 - Tony L. O'Dell
6	3/31/2021 2:10:10 PM	Service Requested	D-001	Plaintiff - Secretary of State
7	4/20/2021 10:07:54 AM	E-Docketed		Supporting Documents - REC ACCEPTANCE FROM SEC OF STATE ON BEHALF OF AMERICAN BANKERS LIFE ASSURANCE. MBS
	7-1 4/12/2021	Supporting Document - ACCEPTANCE OF SERVICE. MBS		
	7-2 4/12/2021	Transmittal		

EXHIBIT 4

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

Sandra Wood, individually and as
Administratrix of the Estate of Michael
Wood, deceased, and on behalf of all others
similarly situated,

Plaintiff,

v.

American Bankers Life Assurance Company
of F.L.O.R.I.D.A.,

Defendant.

C.A. No. CC-41-2021-C-93

Judge Darl Poling

NOTICE OF FILING NOTICE OF REMOVAL

PLEASE TAKE NOTICE that a Notice of Removal of the above-captioned action from the Circuit Court of Raleigh County, West Virginia, to the United States District Court for the Southern District of West Virginia, a copy of which is attached hereto as Exhibit A, was duly filed in the Office of the Clerk of the United States District Court for the Southern District of West Virginia on May 5, 2021.

Dated: May 5, 2021

Respectfully submitted,

/s/ Jill Cranston Rice

Jill Cranston Rice (WVSB # 7421)

Alex M. Greenberg (WVSB # 12061)

DINSMORE & SHOHL LLP

215 Don Knotts Blvd., Suite 310

Morgantown, WV 26501

Phone: (304) 296-1100

Fax: (304) 296-6116

Email: jill.rice@dinsmore.com

Email: alex.greenberg@dinsmore.com

*Attorneys for American Bankers Life Assurance
Company of Florida*

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

Sandra Wood, individually and as
Administratrix of the Estate of Michael
Wood, deceased, and on behalf of all others
similarly situated,

Plaintiff,

v.

American Bankers Life Assurance Company
of F.L.O.R.I.D.A.,

Defendant.

C.A. No. CC-41-2021-C-93

Judge Darl Poling

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that she served the foregoing **Notice of Filing** **Notice of Removal** and all exhibits on counsel of record listed below by depositing true copies thereof in the regular manner in the United States mail, postage prepaid, on the 5th day of May, 2021, addressed as below and electronically filing via the Court's WV E-filing system:

Tony L. O'Dell
Cheryl A. Fisher
Post Office Box 11830
Charleston, WV 25339
Phone: (304) 720-6700
Email: todell@tolawfirm.com
Email: cfisher@tolawfirm.com

Counsel for Plaintiff

Respectfully submitted,

/s/ Jill Cranston Rice
Jill Cranston Rice (WVSB # 7421)

EXHIBIT 5



Business Entity Details

Main

Name: AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA			Organization Number: 136983	
Type: I	Sec Type:	City: MIAMI	Class:	Ch Type:
Eff Date: 7/8/1955	Fil Date:	Term Date:	Term Reason:	AW/Term:
CH County:	Ch State:	Bus Purp: 5241	Ex Acres:	Term Yrs:
Auth Shrs:	Cap Stck:	Status: Active	Par Val:	MGMT:

Addresses

Principal Office Address:	Name:	Addr1: 11222 QUAIL ROOST DR.	Addr2:	City: MIAMI	State: FL	Zip: 33157
Notice of Process Address:	Name: CORPORATION SERVICE COMPANY	Addr1: 209 W. WASHINGTON ST	Addr2:	City: CHARLESTON	State: WV	Zip: 25302
Mailing Address:	Name:	Addr1: 11222 QUAIL ROOST DRIVE	Addr2:	City: MIAMI	State: FL	Zip: 33157

Officers

No Records Found.

DBAs

No Records Found.

Names

No Records Found.

Mergers

Merger Date	Merged	Mer St/Prov	Survived	Sur St/F

3/29/2007	UNION SECURITY LIFE INSURANCE COMPANY		AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA	
2/13/2007	UNION SECURITY LIFE INSURANCE COMPANY		AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA	
8/5/2004	VOYAGER LIFE INSURANCE COMPANY		AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA	

Subsidiaries

No Records Found.

Amendments

Amendment Date	Amendment
3/29/2007	MERGER: MERGING UNION SECURITY LIFE INSURANCE COMPANY, A QUALIFIED INSURANCE COMPANY WITH AND INTO AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA, A QUALIFIED INSURANCE COMPANY, THE SURVIVOR
2/13/2007	MERGER: MERGING UNION SECURITY LIFE INSURANCE COMPANY, A QUALIFIED INSURANCE COMPANY WITH AND INTO AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA, A QUALIFIED INSURANCE COMPANY, THE SURVIVOR
8/5/2004	MERGER: MERGING VOYAGER LIFE INSURANCE COMPANY, A QUALIFIED INSURANCE COMPANY WITH AND INTO AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA, A QUALIFIED INSURANCE COMPANY, THE SURVIVOR

Dissolutions

No Records Found.

Annual Reports

Filing For	Date Filed
2020	6/24/2020
2019	6/12/2019
2018	6/25/2018
2017	6/6/2017
2016	6/28/2016
2015	6/17/2015
2014	5/28/2014
2013	5/30/2013
2012	6/29/2012
2011	6/29/2011

2010	6/24/2010
2001	6/18/2001

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EXHIBIT 6



Demographics

Company Name: AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA	Short Name:
SBS Company Number: 109404080	FEIN: 59-0676017
Domicile Type: Foreign	Country of Domicile: United States
NAIC Group Number: 19 - Assurant Inc Grp	Date of Incorporation: 02/06/1952
Merger Flag: No	NAIC CoCode: 60275
State of Domicile: Florida	Organization Type: Stock

DBA Name

No results found.

Address

Business Address ATTN: GOVERNMENT RELATIONS DEPT 11222 QUAIL ROOST DR MIAMI, FL 33157-6596 United States	Mailing Address ATTN: GOVERNMENT RELATIONS DEPT 11222 QUAIL ROOST DR MIAMI, FL 33157-6596 United States	Statutory Home Office Address 11222 QUAIL ROOST DR MIAMI, FL 33157 United States	Main Administrative Office Address 11222 QUAIL ROOST DR MIAMI, FL 33157 United States
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Phone, Email, Website

Phone	Email	Website										
<table border="1"> <thead> <tr> <th>Type</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>Business Primary Phone</td> <td>(305) 253-2244</td> </tr> <tr> <td>Main Admin Office Primary Phone</td> <td>(305) 253-2244</td> </tr> <tr> <td>Mailing Primary Phone</td> <td>(305) 253-2244</td> </tr> <tr> <td>Statutory Home Office Primary Phone</td> <td>(305) 253-2244</td> </tr> </tbody> </table>	Type	Number	Business Primary Phone	(305) 253-2244	Main Admin Office Primary Phone	(305) 253-2244	Mailing Primary Phone	(305) 253-2244	Statutory Home Office Primary Phone	(305) 253-2244	No results found.	No results found.
Type	Number											
Business Primary Phone	(305) 253-2244											
Main Admin Office Primary Phone	(305) 253-2244											
Mailing Primary Phone	(305) 253-2244											
Statutory Home Office Primary Phone	(305) 253-2244											

Company Type

Company Type: Life	Status Reason: Allowed to do Business	Status Date: 05/03/2020
Status: Active	Legacy State ID: 286278	Expiration Date: 05/31/2021
Effective Date: 06/01/2020	Approval Date:	File Date:
Issue Date: 07/08/1955	Article No:	COA Number:
Articles of Incorporation Received: No		

Appointments



Licensee Name	License Number	NPN	License Type	Line of Authority	Appointment Date	Effective Date	Expiration Date
CRAIG YATES	3590402	3590402	Insurance Producer	Life	01/11/2021	01/11/2021	05/31/2021
CRAIG YATES	3590402	3590402	Insurance Producer	Accident and Health or Sickness	01/11/2021	01/11/2021	05/31/2021

Line Of Business

Line of Business	Citation Type	Effective Date
Life - Article 1, Section 10(a)	Life - Article 1, Section 10(a)	01/08/2001
Accident & Sickness - Article 1, Section 10(b)	Accident & Sickness - Article 1, Section 10(b)	01/08/2001

Contact

Contact Type	Preferred Name	Name	E-mail	Phone	Address
Agent Licensing		Contact		Business Primary Phone: (800) 852-2244	Other KIM SWACKHAMMER 11222 QUAIL ROOST DRIVE MIAMI, FL United States County 331576596
Tax		Tax Department		Business Primary Phone: (305) 253-2244	Other ATTN: GOVERNMENT RELATIONS DEPT 11222 QUAIL ROOST DR MIAMI, FL United States County 331576596
Complaint		Laydelis Leon-Cobo	Business Email: regulatory.complaints@assurant.com	Business Primary Phone: (800) 852-2244	Other REGULATORY ADMINISTRATION DEPT 11222 QUAIL ROOST DRIVE MIAMI, FL United States County 33157

No results found.

Name Change History

Previous Name	New Name	Effective Date
	AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA	

EXHIBIT 7

TIANO ODELL PLLC

Experience you want. Results you need.

info@tolawfirm.com | tolawfirm.com | p 304.720.6700 | f 304.720.5800 | 118 Capitol Street | PO Box 11830 | Charleston, WV 25339

July 2, 2020

City National Bank
Attn: Jonathan Gross
1 Park Ave.
Beckley, WV 25801

American Bankers Life Assurance Company
Attn: Legal-claims department
11222 Quail Roost Drive
Miami, FL 33157-6596

RE: Life Insurance Policy of Michael G. Wood
Financial Institution: Bank of Raleigh/City National Bank
Beneficiary: Sandra K. Wood
Effective Date: 05/01/96
Original Policy Amount \$50,000
ID Number# 000000000043932-0
Mask ID: xxxxxxxxxxxxxx6001-0
Date of Death: February 8, 2018

To Whom It May Concern:

Please be advised that I represent Sandra K. Wood, both as the beneficiary of the above policy and as the Administratrix of the Estate of Michael Wood. I attach herewith as Exhibit A, a copy of Ms. Wood's Letter of Administration evidencing her appointment as representative of the estate, and Exhibit B a copy of Mr. Wood's death certificate.

First, I am requesting a full and complete copy of the insurance policy contract, which consists of the following

1. the group policy;
2. the group policy application;
3. the insured's (Michael K. Wood's) application; and
4. any endorsements or riders;

Second, please consider this correspondence as yet another notice of claim. As such, my client is requesting that American Bankers Life Assurance Company immediately pay the face amount of policy.



July 3, 2020

Page Two

And third, my client is requesting that she be reimbursed for premium payments made since the date of Mr. Wood's death.

I request that all of the requests be answered within 15 working days as required by West Virginia law. In the meantime, if you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tony L. O'Dell', with a large, sweeping flourish extending to the right.

Tony L. O'Dell

TLO:np
Enclosures

United States of America

State of West Virginia



County of Raleigh, ss:

Letter of Administration

Estate of MICHAEL GORDON WOOD

I, Carl W. Roop, Fiduciary Supervisor of Raleigh County, in the State of West Virginia, do hereby certify that SANDRA KAYE WOOD was on the 8th day of June, 2018, appointed by the Fiduciary Supervisor of the Raleigh County Commission as administratrix(s) of the Estate of MICHAEL GORDON WOOD, duly qualified as such by taking oath prescribed by law, and by giving approved bond in the sum of \$0.00, as required by law.

NOW THEREFORE, be it known that said appointment is now in full force and effect and that full faith and credit are due and should be given to all the acts of the said SANDRA KAYE WOOD as such administratrix(s) of the Estate of MICHAEL GORDON WOOD, as well in all jurisdictions, as elsewhere.

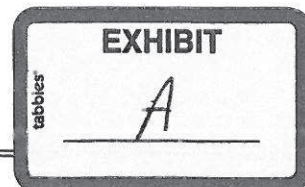
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Raleigh County Commission at my office in said County on the 15th day of June, 2020.

Handwritten signature of Carl W. Roop

Carl W. Roop
Fiduciary Supervisor of Raleigh County

By Dawn L Bass

Dawn L. Bass
Deputy Clerk



THIS DOCUMENT HAS A LIGHT BACKGROUND ON TRUE WATERMARKED PAPER. HOLD TO LIGHT TO VERIFY FLORIDA WATERMARK.

BUREAU of VITAL STATISTICS

CERTIFICATION OF DEATH

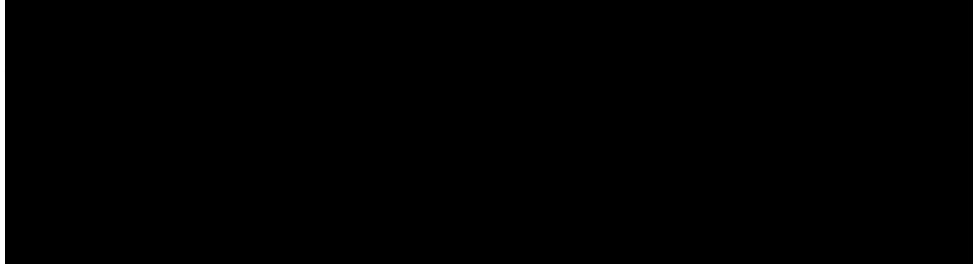
STATE FILE NUMBER: 2018025182

DATE ISSUED: FEBRUARY 26, 2018

DECEDENT INFORMATION

DATE FILED: FEBRUARY 23, 2018

NAME: MICHAEL G WOOD



SURVIVING SPOUSE / PARENT NAME INFORMATION

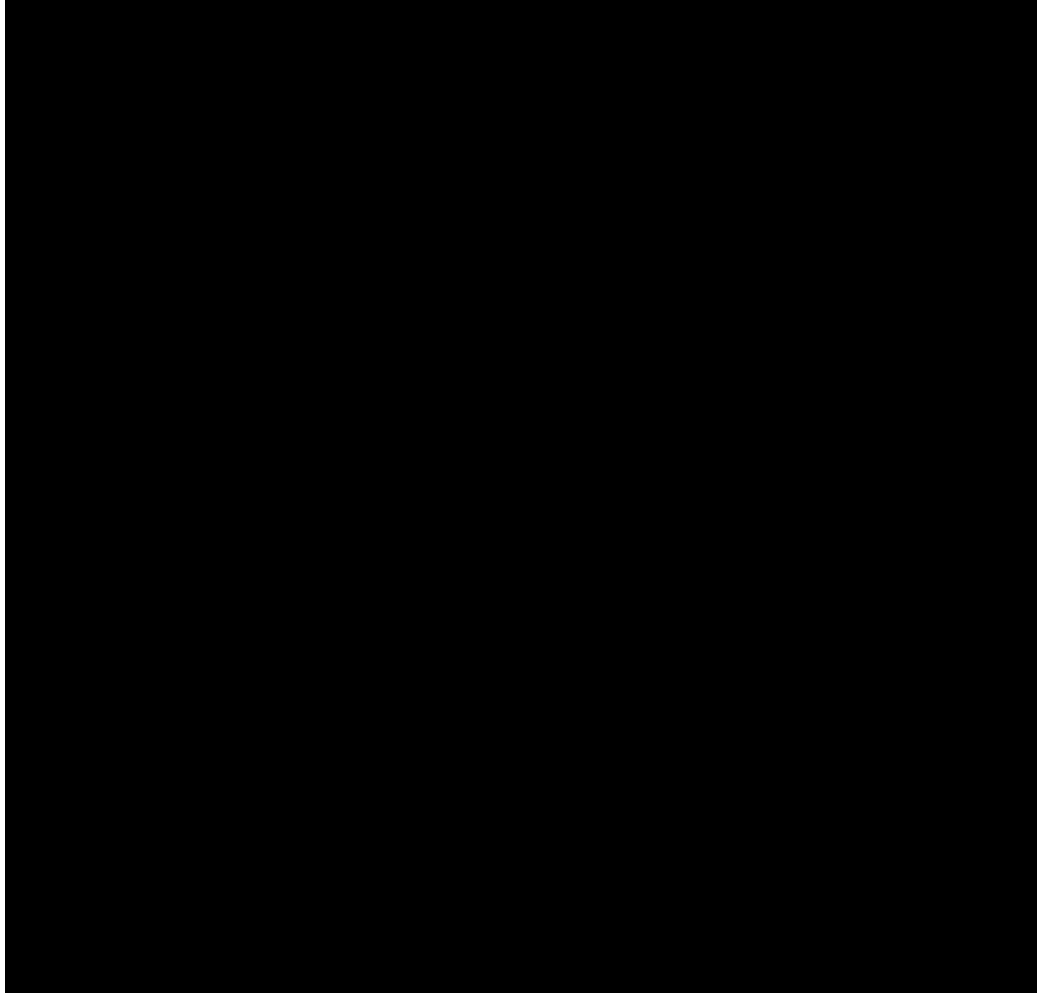
(NAME PRIOR TO FIRST MARRIAGE, IF APPLICABLE)

MARITAL STATUS: MARRIED

SURVIVING SPOUSE NAME: SANDRA K STEWART

FATHER'S/PARENT'S NAME: JOSEPH WOOD

MOTHER'S/PARENT'S NAME: ELIZABETH JEAN GRANT



VOID IF ALTERED OR ERASED

VOID IF ALTERED OR ERASED

Kim Jones

STATE REGISTRAR

REQ: 2019014710

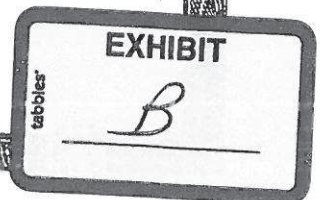
WARNING:

THE ABOVE SIGNATURE CERTIFIES THAT THIS IS A TRUE AND CORRECT COPY OF THE OFFICIAL RECORD ON FILE IN THIS OFFICE. THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH WATERMARKS OF THE GREAT SEAL OF THE STATE OF FLORIDA. DO NOT ACCEPT WITHOUT VERIFYING THE PRESENCE OF THE WATERMARKS. THE DOCUMENT FACE CONTAINS A MULTICOLORED BACKGROUND, GOLD EMBOSSED SEAL, AND THERMOCHROMIC FL. THE BACK CONTAINS SPECIAL LINES WITH TEXT. THIS DOCUMENT WILL NOT PRODUCE A COLOR COPY.



DH FORM 1947 (03-13)

CERTIFICATION OF VITAL RECORD



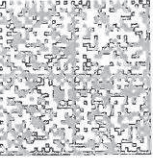
81/2/18
—
SKJ
X

TIANO ODELL RLIC

Experience you want. Results you need.

P0 Box 11830 | Charleston, WV 25339

02 7H
0001261944 JUL 02 2020
MAILED FROM ZIP CODE 25301



FIRST-CLASS

American Bankers Life Assurance Company
Attn: Legal-claims department
11222 Quail Roost Drive
Miami, FL 33157-6596

33157-659699 

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

Sandra Wood, individually and as Administratrix of the Estate of Michael Wood, deceased, et al.

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

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

Tony L. O'Dell and Cheryl A. Fisher, Tiano O'Dell, PLLC P.O. Box 11830, Charleston, WV 25339, (304) 720-6700

DEFENDANTS

American Bankers Life Assurance Company of Florida

County of Residence of First Listed Defendant Miami-Dade Co., FL (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Jill C. Rice and Alex M. Greenberg, Dinsmore & Shohl LLP 215 Don Knotts Blvd., Ste 310, Morgantown, WV 26501

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)

- PTF DEF Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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 various legal categories like Insurance, Personal Injury, Real Estate, 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, 1441, 1446 and 1453. Brief description of cause: Breach of contract, bad faith, unfair trade practices, West Virginia Consumer Credit Protection Act

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE May 5, 2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Jill C. Rice

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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [American Bankers Life Assurance Co. Hit with Class Action Over Alleged Automatic, Unauthorized Premium Withdrawals](#)
