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11 Attorneys for Plaintiff JAMES FOX, Individually, and
12 on Behalf of the Class

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1 Plaintiff JAMES FOX, Individually, and on Behalf of the Class, and as defined below,
2 makes the following allegations against Defendant GENWORTH LIFE AND ANNUITY
3 INSURANCE COMPANY, a Virginia Corporation (“GENWORTH” or “Defendant”), and DOES
4 1-10, Inclusive, as follows:

5 **I. NATURE OF THE CASE**

6 1. Since January of 2013, GENWORTH has wrongfully terminated hundreds of life
7 insurance policies in violation of Cvalifornia law. The unlawful activity continues to this day.
8 Plaintiff and the Class of Defendant’s policy holders and vested beneficiaries are victims of
9 GENWORTH’s ongoing unlawful practices.

10 2. Since January 1, 2013, every life insurer doing business in California, before it can
11 lawfully lapse or terminate a life insurance policy for nonpayment of premium, must strictly
12 comply with the notice and grace period provisions found in California Insurance Code Sections
13 10113.71 and 10113.72 (“the Statutes”), as well as existing in California common law. There are
14 no exceptions. The legal requirements of the Statutes are simple.

15 3. First, every life insurance policy must “contain” and actually grant a 60-day grace
16 period. This means a 60-day grace period must be actually written and contained in the terms of
17 the contract of insurance provided to the policy owner. During this time, premiums received must
18 be accepted without condition and the policy owner and the insurer may not declare the policy
19 lapsed or terminated. Should the insured die during the grace period, the insurer must pay the
20 policy benefits.

21 4. Second, the Statutes mandate that no policy may lapse or be terminated until and
22 unless, after a payment is due and is unpaid, the insurer mails a 30-day warning notice, not only to
23 the policy owner, but also to any assignee, any person with interest in the policy, and a designee
24 selected by the policy owner to receive such notice. The notice may only be mailed after the initial
25 premium is due and is unpaid and must be an accurate description of the status of the policy.

26 5. Next, every “applicant” for life insurance must be notified of its right to designate
27 an individual to receive the 30-day notices provided by the Statutes prior to the issuance and
28 delivery of the policy. This notice must then be provided annually to the policy owner. An

1 “applicant” for life insurance means any form of applicant, including “applicants” for
2 reinstatement, conversion, or any modification or change or in the contract.

3 6. Finally, under the terms of the Statutes, no insurer may lapse or terminate a life
4 insurance policy for nonpayment without first strictly complying with all these provisions. Failure
5 to comply with all these notice provisions voids any attempted termination or lapse as a matter of
6 law until and unless there has been compliance. None of these requirements are satisfied by
7 substantial performance, nor are they excused by the conduct of the policy owner or the alleged
8 subjective intent of the policy owner. These are mandates and, absent compliance with each and
9 every provision, no lawful termination of a life insurance policy occurs until and unless the
10 provisions are fully and strictly satisfied.

11 7. Since January 1, 2013, GENWORTH has systematically and purposely failed to
12 provide full 60-day grace periods, proper notices of pending lapse or termination, or inform
13 applicants and policy owners of their right to designate a third party to receive notices of lapse.
14 Further, in evaluating terminations arising from nonpayment of premium after January 1, 2013,
15 GENWORTH has failed to apply these rules and undertook no evaluation of its own compliance.
16 This specific failure to comply is universal and implicates policies issued before the date of the
17 Statutes’ enactment (January 1, 2013).

18 8. GENWORTH has also intentionally concealed from its policy owners and
19 beneficiaries and other persons and entities with interest in its life insurance products, the
20 existence of these mandatory rules and procedures and the rights they guarantee – rights about
21 which GENWORTH would rather its customers and claimants not know. This concealment,
22 scheme, and plan by GENWORTH is intentional, as is GENWORTH’s complete disregard for the
23 statutory mandates of California.

24 9. Moreover, since January 1, 2013, GENWORTH has become aware of its failures
25 and has failed to take the appropriate corrective action. Instead, GENWORTH appears to have
26 doubled down and made the decision to ignore the law, ignore court rulings, and deal with the
27 occasional complaint without regard to its obligation to apply these rules properly and completely
28 to all of its varied life insurance products utilized in this state.

1 10. GENWORTH’s continued disregard for the law is widespread. Indeed, hundreds of
2 policy owners have lost and continue to lose the benefit, value, and security of their life insurance;
3 have been and continue to be forced into unnecessary reinstatements; and in many instances have
4 lost all reasonable access to any insurance at all. Ultimately, GENWORTH has robbed hundreds of
5 its beneficiaries, like Plaintiff, of policy benefits and hundreds of insureds of the ability to have life
6 insurance protection.

7 11. The injury to GENWORTH’s customers and vested beneficiaries continues today,
8 with policy owners currently paying unnecessary or inflated premiums or unknowingly suffering
9 from improper, forced “reinstatements” which diminish the value of the policies. GENWORTH
10 has told numerous policy owners that they have no insurance, although their policies, unbeknownst
11 to the policy owners, are still in force. All share the same harm and injury – an unlawfully
12 terminated policy. Today these people, their heirs, beneficiaries, and others with interest, likely
13 believe that the defaulting party to these policies is the policy owner, when, in fact, the only party
14 in default and the only party which disavowed and repudiated the policy was GENWORTH.
15 Beneficiaries who do make claims are having these claims denied on the false assertion that the
16 policy was terminated when, in fact, benefits are owed. Most actual vested beneficiaries do not
17 even know that they have rights under a policy illegally terminated, which still requires payment of
18 the benefits.

19 12. The mandates of California law and the California Insurance Code were established
20 to protect all Californians and others, primarily seniors and the ill, and apply regardless of the date
21 of the policy’s issuance. *McHugh v. Protective Life Ins. Co.* (2021) 12 Cal.5th 213.¹

22 13. GENWORTH’s conduct and failure to comply with the Statutes is intended to take
23 advantage of the people for whose benefit the Statutes were passed. GENWORTH intentionally

24 ¹ Recently, the Ninth Circuit upheld a decision by a district court concluding that failure to strictly
25 comply with the provisions of Insurance Code Sections 10113.71 and 10113.72 does not legally
26 terminate a life insurance policy purportedly in default, and, that if a death of an insured occurs,
27 policy benefits are owed. *Thomas v. State Farm Life Ins. Co.*, No. 20-55231, 2021 U.S. App.
28 LEXIS 30035 (9th Cir. Oct. 6, 2021); *See also, Bentley v. United of Omaha Life Ins. Co.*, No.
2:15-cv-07870-DMG(AJWx), 2018 U.S. Dist. LEXIS 117107 (C.D. Cal. May 1, 2018); *Moriarty*
v. Am. Gen. Life Ins. Co., No. 3:17-cv-1709-JO-WVG, 2023 U.S. Dist. LEXIS 141961, at *11
(S.D. Cal. Aug. 14, 2023) (holding that failure to comply with the Statutes means a policy cannot
lapse).

1 increased the likelihood of forfeitures, which allowed GENWORTH to gain financially at the
2 expense of its customers.

3 14. Plaintiff is a victim of GENWORTH's past and continual failure to appreciate the
4 importance and mandates of the Statutes and to disclose those mandates to their policy owners. In
5 or around August 2022, GENWORTH wrongfully terminated Plaintiff's policy without providing
6 all of the Statutes' protections.

7 15. In sum, Plaintiff suffered the common single harm suffered by all of the Class
8 members – the wrongful and continued repudiation of valuable life insurance policies or denial of
9 death benefits as vested beneficiaries. Plaintiff's experience is not unique and is suffered by the
10 Class as a whole.

11 16. Plaintiff brings this action to recover for the injuries and damages and/or for the
12 Court to fashion appropriate remedies necessary and resulting from these violations, not only for
13 his benefit, but also on behalf of the numerous California policy owners and beneficiaries who
14 have also been denied and continue to be denied the benefits of California law. Plaintiff also
15 requests injunctive relief intended to ensure GENWORTH's future compliance with these
16 important consumer safeguards and to prevent ongoing violations of these important Statutes.

17 **II. PARTIES**

18 17. Plaintiff JAMES FOX, Individually, and on Behalf of the Class, is the beneficiary
19 of the subject policy. Plaintiff is and has been a resident and citizen of Sacramento County,
20 California, at all times relevant, Plaintiff pursues these claims and causes of action individually, on
21 his own behalf as the beneficiary of the subject policy, and on behalf of the Class.

22 18. Defendant Genworth Life and Annuity Insurance Company ("GENWORTH" or
23 "Defendant") is a Virginia corporation engaged in business involving the sale and administration
24 of life insurance throughout the United States and other territories. GENWORTH is licensed to
25 conduct business and does business throughout California. GENWORTH is a licensed/chartered
26 life insurance carrier in California and is subject to regulation by California authorities.

27 19. Defendants DOES 1 through 10, inclusive, are various forms of insurance
28 companies, agents, brokers, or other entities engaged in and operating in conjunction with

1 GENWORTH in a manner and fashion unknown to Plaintiff at this time so as to cause and/or
2 contribute to the injuries and allegations herein described.

3 20. Plaintiff is informed and believes, and on that basis alleges, that now and at all
4 times relevant, each Defendant was and is the agent, employee, employer, servant, representative,
5 partner and/or co-venturer of each of the other Defendants, and was acting and is acting within the
6 scope of such authority and relationship and with the knowledge, approval, consent, and
7 ratification of the other Defendants, as applicable in each of the transactions, events, or other
8 matters herein described.

9 **III. JURISDICTION**

10 21. This is a civil matter of which the Courts of California have jurisdiction. This action
11 arose in the state of California and exclusively involves application of laws of the state of
12 California, as well as life insurance policies issued or delivered in California.

13 22. Plaintiff is informed and believes that the controversy at issue solely involves a
14 dispute confined to the state of California, its laws, and the ultimate jurisdiction of the courts of
15 California.

16 23. Plaintiff is informed and believes that all injuries and damages arose primarily in
17 the state of California and all related conduct of the Defendant occurred solely within the state of
18 California.

19 24. GENWORTH is authorized to conduct business in this state and has intentionally
20 availed itself of the laws and markets within this state and does substantial business in this state.
21 The business and activities, which are the subject of this litigation, are being conducted throughout
22 the state in each and every county on a uniform and consistent basis. Plaintiff is informed and
23 believes that GENWORTH treats all policy owners, beneficiaries, agents, producers, or others
24 living or located in California as being regulated and governed by the same uniform statewide
25 policies and procedures. GENWORTH's business within this state is substantial and consists of the
26 marketing, sale, delivery, maintenance, and administration of thousands of life insurance policies,
27 representing billions of dollars in benefits, as well as the maintenance of dozens of sales and agent
28 offices.

1 25. GENWORTH advertises throughout California, including throughout this county,
2 and conducts significant sales and related business activities in California and in this county, in
3 general, as well as specifically regarding the marketing, sale, and administration of life insurance
4 policies.

5 26. Plaintiff is informed and believes that GENWORTH, consistent with industry
6 standards for insurance companies doing business in numerous jurisdictions, utilizes the addresses
7 of policy owners as a determining factor of what law to apply to the administration of the policy.
8 As such, GENWORTH treats policy owners residing in California as requiring application of
9 California law, and GENWORTH, furthermore, acknowledges its capacity to be sued in California
10 counties in which it conducts business. GENWORTH has developed and continues to develop and
11 apply not only marketing strategies, but administration strategies, specifically, in relation to actual
12 or potential policy owners residing in California. GENWORTH's wrongful conduct has occurred
13 in this county and throughout the state of California. Since 2013, the wrongful conduct alleged
14 throughout this Complaint has occurred within California.

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

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

26 28. Sections 10113.71 and 10113.72, in addition to other statutory provisions and laws
27 in effect as of January 1, 2013, mandate that every life insurance policy in or governed by
28 California law, including policies that have issued, been delivered, renewed, reinstated, converted

1 or otherwise become subject to the jurisdiction of California, shall contain a 60-day grace period
2 and that the policy shall remain in force during the grace period. Cal. Ins. Code § 10113.71(a).

3 29. The provisions further require that, before any life insurance policy governed by
4 California law is lapsed or terminated for nonpayment of premium, a 30-day written notice of
5 pending lapse or termination must be mailed, not only to the policy owner, but also to any
6 additional person who has been designated to receive such notice, as well as to any person having
7 any interest in the policy. Cal. Ins. Code § 10113.71(b)(1); and *see* § 10113.72(c) (dealing with
8 designee notification).

9 30. The provisions also mandate that the insurer, on an annual basis, as well as during
10 any application process, notify the policy owner of an “individual policy” of his or her right to
11 designate additional notice recipients. This again is an obligation owed on any policy within the
12 jurisdiction of California.

13 31. Finally, the Statutes mandate that no lapse or termination is effective unless every
14 one of the applicable provisions is strictly complied with. The Statutes codified existing California
15 law on strict compliance with forfeiture provisions.

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

18 33. More specifically, Section 10113.71 originally reads as follows:

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

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

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

(2) This subdivision shall not apply to nonrenewal.

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

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

8 Next, Section 10113.72 states:

9 **§ 10113.72 Right to designate person to receive notice of lapse
10 or termination of policy for nonpayment of premium; Right to
11 change designation; Notice of lapse or termination**

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

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

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

34. These provisions were intended to standardize the procedures and notices used by
life insurers to terminate policies. The Statutes further codified longstanding California law and
policy regarding the state's desire to protect policy owners and beneficiaries from loss of insurance
resulting from the failure, *e.g.*, to pay a single premium after years of timely payments.

V. GENWORTH'S VIOLATIONS OF LAW

35. In 2012, Defendant was made fully aware of the drafting and enactment of these
provisions. And through its own lobbying groups and regulatory advisors, Defendant understood

1 how and in what fashion the Statutes would apply. Prior to enactment, Defendant made no attempt
2 to object to the enactment of the Statutes, which are the subject of this litigation.

3 36. Despite early knowledge of the Statutes and their mandates, since January 1, 2013,
4 Defendant has failed to fully comply with the Statutes. GENWORTH has treated policies
5 differently based on their date of issuance and the type of the policy.

6 37. Specifically, GENWORTH has not strictly complied with the Statutes regarding
7 individual policies issued or delivered in the state of California prior to January 1, 2013.

8 38. GENWORTH has failed to provide full 60-day grace periods contained in the
9 policy by either not actually attaching or making the grace period a physical part of the policy,
10 improperly advising policy owners and/or claimants of the wrong grace period, not accepting
11 premiums without conditions during the grace period or inaccurately declaring a policy terminated
12 prior to the expiration of the grace period, which amounts to a repudiation of the policy.

13 39. GENWORTH has failed to mail accurate timely 30-day pending lapse notices to the
14 policy owner and/or designee either by inaccurately describing the actual grace period, by failing
15 to mail to those recipients the notices required by law and/or by providing insufficient time
16 periods, as required by law.

17 40. GENWORTH has failed to provide annual notifications to policy owners entitled to
18 such notices of their rights to designate.

19 41. GENWORTH has failed apply the mandates of the Statutes, which are absolute
20 conditions for termination of any policy for nonpayment of premium, and instead excuses its
21 noncompliance based on the inaccurate, perceived intentions of the policy owner or other
22 irrelevant grounds or justifications.

23 42. GENWORTH has treated policy owners directly and indirectly as if they are in
24 default for payment of premiums, when, in fact, in every instance, GENWORTH first violated the
25 terms of the policy and/or Statutes prior to any actual default by any policy owner.

26 43. GENWORTH has imposed new conditions on terminated policies, including the
27 demand for repayment of unearned premiums, as well as ignoring the consequences of
28 noncompliance with the Statutes.

1 44. GENWORTH has been aware, since 2013, that all of its policies administered in the
2 state of California and in force after January 1, 2013, were to be administered consistent with these
3 provisions. However, GENWORTH has acted in contravention and violation of various Insurance
4 Code provisions, other than the Statutes, including regulatory mandates and the implied covenant
5 of good faith and fair dealing implied in every insurance contract in California.

6 45. In August of 2021, GENWORTH learned that the California Supreme Court had
7 confirmed that the Statutes applied to all in force life insurance policies in the state as of or after
8 January 1, 2013, including, Plaintiff's policy, but have yet to acknowledge this fact, inform its
9 insureds and still refuses to comply with the law after August 2021.

10 46. Finally, Plaintiff is informed and believes GENWORTH has failed to institute
11 appropriate training and education of sales and underwriting staff, as well as claims personnel and
12 others, whose knowledge of these rules is essential for GENWORTH's operation. Plaintiff is
13 informed and believes that additional violations of the Statutes have also occurred, which will be
14 disclosed during this litigation.

15 **VI. MR. FOX'S POLICY, TERMINATION, AND DENIAL OF CLAIM**

16 47. Plaintiff's experience with GENWORTH is representative of GENWORTH's
17 ongoing course of misconduct and noncompliance.

18 48. In or around October 2007, Plaintiff ("Mr. Fox"), purchased from or in California a
19 term life insurance policy (the "Policy" or "Subject Policy") from GENWORTH. The policy
20 number on the Subject Policy is 988964. As of the date of filing, Plaintiff does not have a full copy
21 of his Policy contract. GENWORTH maintains custody, possession, and control of the entire
22 Policy file, which will be produced by GENWORTH in this litigation. Plaintiff is informed and
23 believes that the Policy had an initial term of 25 years.

24 49. The Policy was purchased in California, was issued and delivered in California, and
25 premiums were all paid from California, such that it was and continues to be governed by the laws
26 of the state of California, including, but not limited to, the Statutes. The value of the Policy is
27 \$750,000 or more and names Plaintiff's wife, Juliet Fox.

28 50. Plaintiff stayed current on the Policy and faithfully paid quarterly premiums for

1 nearly 15 years, and well beyond enactment of the Statutes by the California Legislature in 2013.
2 Sometime in or around April of 2022, Mr. Fox inadvertently missed his quarterly premium
3 payment and GENWORTH declared the policy terminated on May 3, 2022. The termination notice
4 states, “The grace period for this premium ended 30 days after the Due Date shown in this Notice.”
5 See Exhibit “A.”

6 51. Following termination of the Policy, Mr. Fox contacted GENWORTH and was told
7 he would have to apply for reinstatement. GENWORTH sent Mr. Fox a reinstatement application,
8 which Mr. Fox is informed and believes he completed and mailed back. To date, GENWORTH
9 has not responded to the reinstatement application.

10 52. Based on information and belief, as of the date of the purported lapse or termination
11 of the Policy, GENWORTH had violated every single provision of the Statutes.

12 53. Initially, prior to discovery and investigation, it appears GENWORTH violated Cal.
13 Ins. Code Section 10113.72(b) by not annually notifying Mr. Fox of a right to designate.

14 54. GENWORTH also terminated the Policy without compliance with the provisions
15 of Cal. Ins. Code Section 10113.71(a), which mandated a 60-day grace period. The grace period
16 notice sent by GENWORTH indicates the policy had a 31-day grace period. See Exhibit “B.”

17 55. GENWORTH also failed to provide notices, as required by Cal. Ins. Code Sections
18 10113.71(b)(1) and (3). The notice sent by GENWORTH was not sent 30 days before the effective
19 date of termination.

20 56. No compliant notice was sent to the policy owner and no notice was sent to the
21 designee due to GENWORTH’s failure to provide the right to designate during the years the
22 Policy was in force after 2013. *See* Cal. Ins. Code Section 10113.72(b).

23 57. GENWORTH then proceeded to violate Insurance Code Sections 10113.71 and
24 10113.72, when claiming that the Policy had lapsed or terminated. In fact, however, under the
25 provisions of Sections 10113.71(b)(1) and 10113.72(b), no legal termination had occurred.
26 GENWORTH never complied with the strict compliance aspects of the Statutes in any respect.

27 58. As of August 2021, Defendant compounded its violations of the Statutes by failing
28 to comply with the Statutes and its ongoing duty of good faith and fair dealing not only as to the

1 Subject Policy but to other Class policy owners and vested beneficiaries.

2 59. GENWORTH's violations occurred prior to the Policy even reaching the end of the
3 statutory and contractual grace period. Mr. Fox had done nothing contrary to the terms of the
4 Policy, but was being dealt with as the party in default.

5 60. Plaintiff is further informed and believes that, irrespective of the application of the
6 provisions of Sections 10113.71 and 10113.72, GENWORTH systematically failed to comply with
7 the express terms of Policy, which promised a default notice prior to terminating the Policy at the
8 end of the grace period.

9 61. Each of Defendant's violations was a material violation of law and a material
10 breach and repudiation of the Policy, thereby excusing any further performance by Mr. Fox of
11 tendering premiums to maintain the Policy in force or imposing any requirements or conditions.
12 GENWORTH was in contractual breach and remained in breach of the Policy at all times from at
13 least January 1, 2013, until the date of this filing. As a result of each and every violation, there was
14 harm and injury to Plaintiff.

15 **VII. CLASS ACTION ALLEGATIONS**

16 62. Plaintiff is informed and believes that Defendant has not, since at least January 1,
17 2013, properly and fully complied with the provisions of California Insurance Code Sections
18 10113.71 and 10113.72. Since that time, Defendant has failed and continues to fail to provide
19 these protections to policy owners and beneficiaries.

20 63. Plaintiff brings this action on behalf of all members of the proposed Class, as
21 follows:

22 **The Class:**

23 All owners, or beneficiaries upon a death of the insured, of Defendant's
24 life insurance policies that were renewed, issued, or delivered by
25 Defendant in California, and in force on January 1, 2013, and which
26 underwent or will undergo lapse or termination for the nonpayment of
27 premium without Defendant first providing every notice, grace period, and
offer of designation required by Insurance Code Sections 10113.71 and
10113.72.

28 64. ***Numerosity.*** The members of the Class are so numerous that their individual

1 joinder is impracticable. Plaintiff is informed and believes, and on that basis alleges, that the
2 proposed Class contains hundreds and perhaps thousands of members. The true number of
3 members is known or ascertainable by the Defendant, as are their identities. Thus, Class members
4 may likely be notified of the pendency of this action by first class mail, electronic mail, and/or by
5 published notice.

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

- 11 a. Has Defendant violated and continued to violate the provisions of Sections
12 10113.71 and 10113.72?;
- 13 b. Is Defendant continuing to refuse to provide the protections afforded by the
14 provisions of Sections 10113.71 and 10113.72?;
- 15 c. Whether Defendant’s life insurance policies have been ineffectively lapsed,
16 terminated, or subsequently unnecessarily modified through reinstatement;
- 17 d. Should the Court invalidate improper lapses, terminations, and/or
18 reinstatements of policies that resulted from Defendant’s failure to comply
19 with the Insurance Code?; and
- 20 e. Should Defendant be required to make payments to beneficiaries of policies
21 where the insured has died, and the policy was lapsed or terminated in
22 violation of Sections 10113.71 or 10113.72?

23 66. ***Typicality.*** Plaintiff’s claims are typical of the claims of the members of the Class
24 and because Plaintiff and each member of the Class were victims of the same statutory violations.
25 Further, Plaintiff’s claims are typical of the claims of his fellow Class members, which all arise
26 from the same operative facts involving the Defendant’s unlawful violations of Sections 10113.71
27 and 10113.72.

28 67. ***Adequacy of Representation.*** Plaintiff will fairly and adequately protect the

1 interests of the Class. Plaintiff has retained counsel highly experienced in handling class action
2 litigation, including that which involves consumer protection from unfair insurance business
3 practices, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no interest adverse
4 or antagonistic to that of the Class.

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

19 69. In the alternative, the Class may also be certified because:

- 20 a. The prosecution of separate actions by individual Class members would
21 create a risk of inconsistent or varying adjudication with respect to
22 individual Class members that would establish incompatible standards of
23 conduct for Defendant;
- 24 b. The prosecution of separate actions by individual Class members would
25 create a risk of adjudications with respect to them that would, as a practical
26 matter, be dispositive of the interests of other Class members not parties to
27 the adjudications, or would substantially impair or impede their ability to
28 protect their interests; and/or

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

4 70. Unless the Class is certified, Defendant will retain monies received because of its
5 conduct taken against the Class members and Plaintiff. Unless a classwide injunction is issued,
6 Defendant will continue to commit the violations alleged and members of the Class will continue
7 to be harmed.

8 71. Plaintiff knows of no difficulty likely to be encountered in the management of this
9 litigation that would preclude its maintenance as a class action. Because the action is brought as a
10 class action, the Court need only apply a single set of California laws as they relate to Defendant's
11 violation of Sections 10113.71 and 10113.72.

12 72. Plaintiff has incurred, and will incur, expenses for attorney's fees and costs in
13 bringing this action. These attorney's fees and costs are necessary for the prosecution of this action
14 and will result in a benefit to each of the members of the Class.

15 **VIII. FIRST CAUSE OF ACTION**
16 **FOR DECLARATORY JUDGMENT OR RELIEF (CAL CIV. CODE § 1060, *ET SEQ.*)**
17 **(By Plaintiff, Individually, and on Behalf of the Class)**

18 73. Plaintiff incorporates by reference each and every allegation contained above.

19 74. Plaintiff, in his individual capacity, as well as in his representative capacity, brings
20 this action individually and on behalf of all members of the Class.

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

28

1 **A. Basis for Relief**

2 76. On January 1, 2013, the California Insurance Code was amended by Sections
3 10113.71 and 10113.72. The provisions of these Statutes were immediately and thereafter read into
4 all in-force policies, regardless of the date of issuance. The provisions were further intended to
5 require compliance by all life insurance policies – including, but not limited to, both group and
6 individual – that came within the jurisdiction of California, including, but not limited to, policies
7 that renewed or somehow continued in force on or after January 1, 2013.

8 77. These Statutes and amendments to the California Insurance Code were intended to
9 and do regulate the lapse and termination procedures arising from nonpayment of premiums which
10 may occur from the date of enactment and thereafter.

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

15 79. Forfeiture provisions for nonpayment of premium for life insurance policies are
16 strictly construed against lapse or termination and California law disfavors forfeiture of insurance.
17 Forfeitures “are often the means of great oppression and injustice” and “the courts should be
18 liberal in construing the transaction in favor of avoiding a forfeiture.” *Ins. Co. v. Norton*, 96 U.S.
19 234, 242 (1978). “Forfeiture of a policy will be avoided on any reasonable showing.” *Klotz v. Old*
20 *Line Life Ins. Co. of Amer.*, 955 F.Supp. 1183, 1188 (N.D. Cal. 1996).

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

22 80. An actual controversy has arisen and now exists between Plaintiff and Defendant
23 concerning their respective rights and duties under the California Insurance Code and the Policy.
24 Plaintiff contends that Sections 10113.71 and 10113.72 apply to the Subject Policy, as well as to
25 all of Defendant’s individual and group California life insurance policies in force as of or after
26 January 1, 2013, including any policies that were renewed in California on or after January 1,
27 2013. Plaintiff also contends that these Statutes govern the manner and procedure in which life
28 insurance policies can legally be lapsed or terminated as of January 1, 2013, and thereafter.

1 Defendant contends that policies terminated without the protection of California Insurance Code
2 Sections 10113.71 and 10113.72 nevertheless remained terminated and that policy owners are not
3 entitled to the revival of their policies and that vested beneficiaries are not entitled to any death
4 benefits.

5 81. Plaintiff contends that the violations of the Statutes, as described herein, all
6 invalidate and void any attempts to terminate the subject policies and/or act as a repudiation of
7 those policies.

8 82. Plaintiff desires a judicial determination of rights and duties and a declaration or
9 judgment that Sections 10113.71 and 10113.72 must be strictly complied with in order to terminate
10 a policy for nonpayment of premium.

11 83. Plaintiff desires a judicial determination that Defendant's life insurance policies in
12 California must contain 60-day grace periods in the written contracts.

13 84. Plaintiff desires a judicial determination that Defendant's failure to annually
14 provide notice of a right to designate a third party to receive notices of pending lapse under
15 Section 10113.72 renders a policy termination ineffective, leaving the policy in force.

16 85. Plaintiff desires a judicial determination that Defendant is not entitled to premium
17 payments for periods of time where Defendant declared a policy terminated in violation of
18 Sections 10113.71 and 10113.72.

19 86. Plaintiff desires a judicial determination that the Subject Policy and Class policies
20 were not properly terminated in conformance with Sections 10113.71 and 10113.72.

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

1 **IX. SECOND CAUSE OF ACTION**
2 **BREACH OF CONTRACT**
3 **(By Plaintiff, Individually, and on Behalf of the Class)**

4 88. Plaintiff incorporates by reference each and every allegation contained above.

5 89. Plaintiff brings this claim individually and also on behalf of all members of the
6 Class, as necessary.

7 90. Defendant breached and continues to breach the express terms of its life insurance
8 policies, including Plaintiff's policy, as well as the statutory mandates regarding such policies, by,
9 amongst other things:

- 10 a. Failing to include in such policies and/or failing to provide a 60-day grace
11 period for purposes of payment of premiums and lapse and termination of
12 coverage for nonpayment of premium;
- 13 b. Lapsing and/or terminating policies before expiration of the 60-day grace
14 period;
- 15 c. Failing to include in such policies and failing to provide accurate 30-day
16 written notice of pending lapse or termination;
- 17 d. Failing, where applicable, to provide proper notice to policy owners on an
18 annual basis of the policy owners' right to designate individuals to receive
19 notices of pending lapse or termination;
- 20 e. Lapsing or terminating policies without strictly complying with the terms of
21 the policies;
- 22 f. Refusing to pay benefits to beneficiaries, despite knowledge and
23 information that Defendant had not strictly complied with the terms of the
24 policies;
- 25 g. Improperly requiring reinstatement of policies that had not lapsed or
26 terminated and which were not required or were not subject to
27 reinstatement;
- 28 h. By failing to pay benefits or claims;
- i. By failing to provide the notices required by the policy; and

1 j. By failing to apply the applicable law to the insurance contract by
2 repudiating policies of insurance for nonpayment without strict compliance
3 with the provisions of the Statutes.

4 91. Under the terms of the Subject Policy and Class policies and consistent with laws of
5 California, Defendant was required to mail the required notices, effectuate the change of the
6 policies to include the proper grace period, and was required to notify policy owners of their right
7 to designate every year as well as during any application. Plaintiff was entitled to be mailed
8 written notice prior to the effectuation of any lapse or termination for nonpayment. Defendant sent
9 no such notice and, thus, breached the insurance contract by failing to provide that notice.

10 92. All of the aforementioned conduct, individually and collectively, constitutes
11 material unexcused breaches of the policy, as well as express material repudiations of the contract.
12 To the extent any contractual obligations, duties, or conditions are imposed on policy owners or on
13 beneficiaries, those obligations, duties, and conditions have been waived and/or have been excused
14 due to Defendant's material breaches.

15 93. Defendant's conduct caused injury upon the false, wrongful, and inadequate
16 termination of coverage, and ultimately in refusing to pay the claim. Plaintiff and his fellow Class
17 members suffered harm through the loss of coverage, the loss of peace of mind related to the
18 existence of coverage, the capacity to utilize the years of investment in wrongfully-lapsed and
19 terminated policies, and through the denial of claims.

20 94. To the extent any policy owners and/or beneficiaries have failed to comply with any
21 payment conditions or other conditions for the continuation of insurance, Defendant is estopped
22 from asserting such conditions due to its conduct and material breaches.

23 95. As a legal and proximate result of the conduct described herein, the Class has
24 suffered direct and foreseeable economic damages, including loss of policy benefits and/or the
25 value of the policy and allowed interest under the terms of the policies and the law, in a nature and
26 amount to be proven at the time of trial.

27
28

1 periods of at least 60 days and the policies had *not* actually lapsed or terminated.

2 103. The unlawful and unfair business practices described above have proximately
3 caused harm and injuries to Plaintiff, the Class, and to the general public in the form of lost money
4 or property. The money lost by the Class includes the policy benefits that GENWORTH is
5 withholding, as well as the premiums it wrongfully collected.

6 104. Pursuant to California's UCL, Plaintiff, the general public, and the members of the
7 Class are entitled to revival of their policies which Defendant illegally terminated by means of
8 such business practices. Examples of this lost money acquired illegally by Defendant include
9 unrefunded premiums, withheld benefits, and diminution of value of policies.

10 105. Defendant continues to this day to ignore or otherwise violate the Statutes and
11 continues to ignore or repudiate otherwise valid and in-force life insurance policies that should be
12 in effect today. Defendant continues to rob owners and beneficiaries of their lawfully-owned
13 policies and benefits. As such, and pursuant to California's UCL, Plaintiff and the members of the
14 Class and the general public are also entitled to injunctive relief, including public injunctive relief,
15 against Defendant's ongoing business practices.

16 106. If Defendant is not enjoined from engaging in the unlawful business practices
17 described above, Plaintiff, the Class, and the general public will be irreparably injured.

18 107. Plaintiff, the general public, and the members of the Class have no plain, speedy,
19 and adequate remedy at law.

20 108. Defendant, if not enjoined by this Court, will continue to engage in the unlawful
21 business practices described above, in violation of the UCL, in derogation of the rights of Plaintiff,
22 the Class, and the general public.

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

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

1 Code of Civil Procedure Section 1021.5.

2 **XI. FOURTH CAUSE OF ACTION**
3 **BAD FAITH**
4 **(By Plaintiff, Individually)**

5 111. Plaintiff incorporates by reference each allegation contained above.

6 112. At all relevant times, Plaintiff was the policy owner of the Policy, was entitled to
7 the protections of the Statutes, and was entitled to the benefit of the implied covenant of good faith
8 and fair dealing.

9 113. At all relevant times, Defendant owed Plaintiff an obligation to perform the express
10 an implied obligations imposed by the Policy, to act in good faith, to deal fairly with Plaintiff and
11 to not interfere with Plaintiff's rights to receive the benefits of the Policy. These duties included
12 not only the duty to pay the policy benefits to the named beneficiary upon the death of the insured,
13 but also Defendant's ongoing promise to accept and receive premiums and maintain the coverage
14 at the premium amounts scheduled, as well as to continue to offer other benefits contained in the
15 policy, including the ability to borrow and increase the amount of coverage, amongst other items.
16 These obligations included, but were not limited, to being honest with Plaintiff and to refrain from
17 concealing material information and always to strictly comply with the provisions of California
18 law arising from Defendant's specific duties imposed and arising from the privilege of conducting
19 business in the state of California.

20 114. At all times, relevant herein, including during the pendency of this action,
21 Defendant had an obligation to be honest, fair, and impartial in the consideration of Plaintiff's
22 claims, as well as to refrain from asserting its interests over those of Plaintiff. These obligations
23 included performing fair and complete investigations, and thoroughly investigating and
24 considering any perceived or actual legal or factual disputes. These obligations included
25 maintaining required documentation and evidence concerning the subject insurance and, where
26 reasonable, to advise and fully disclose to policy owners, beneficiaries, or others with legitimate
27 interests in the insurance, all material facts and information.

28 115. These duties also prevent Defendant from asserting bases for termination of
coverage which do not exist in the law or in the express terms of the Policy and prevent Defendant

1 from treating policy owners and/or beneficiaries in an unreasonable, adversarial fashion.

2 116. The obligations and duties described herein and described before have existed from
3 the inception of the Policy and continue through the pendency of this action. By its conduct
4 described above, Defendant has materially breached the terms and conditions of the Policy and the
5 statutory mandates of California law by engaging in the acts described herein, by failing to comply
6 with the laws of this state and, ultimately, by improperly asserting the lapse and purported
7 termination of the Policy.

8 117. Based on these facts, and other facts that will be developed in this litigation,
9 Defendant, at all relevant times and to date, based on these acts and the common scheme and plan
10 discussed here, have breached the covenant of good faith and fair dealing owed to Plaintiff by
11 failing to comply with the terms of the Policy, by asserting provision and requirements which do
12 not exist, by misrepresenting the facts concerning the law, by failing to completely investigate its
13 attempts to terminate the Policy, by failing to abide by the Policy and the Statutes, by placing
14 Defendant's interests above those of its policy owners, by unreasonably asserting policy provisions
15 without considering the actual facts and the law, by misrepresenting Policy terms and conditions,
16 by misrepresenting and applying the law, and by, amongst other things, failing to comply with
17 proper industry standards and customs regarding lapse or termination of life insurance policies.

18 118. Plaintiff also alleges that the great preponderance of evidence supports the
19 conclusion that Defendant's violation and refusal to comply with the provisions of Ins. Code
20 Sections 10113.71 and 10113.72 were a clear, proximate cause for the improper termination of the
21 Policy.

22 119. At the time the Policy lapsed, Mr. Fox was financially capable of making any
23 premium payments required to keep the Policy in force and had no cause or reason to cease
24 making premium payments on the Policy. In fact, there is not now, nor has there ever been, any
25 evidence, that Mr. Fox did not want and desire to maintain this investment. But for Defendant's
26 multiple, consistent failures to follow the law from 2013 through the improper termination of the
27 Policy, this action would not have been necessary. While not a requirement or condition of the law
28 or Policy to explain the basis or motivation for the nonpayment of premium, Plaintiff can and will

1 demonstrate that the injuries and damages suffered because of the violation of Defendant's bad
2 faith, fraud, and abuse, were a direct result of Defendant's misconduct and violation of the
3 Statutes. And Plaintiff will contend that this was and remains common treatment by Defendant
4 directed at its policy owners and beneficiaries.

5 120. One element of Plaintiff's claim for bad faith is the fraud and concealment
6 undertaken by Defendant during the entirety of the parties' relationship, during which Defendant
7 misrepresented and concealed from Mr. Fox material facts and information crucial to maintenance
8 of the Policy.

9 121. As further described herein, Defendant knew, or should have known, prior to
10 January 1, 2013, that California law (1) mandated that 60-day grace periods applied to all policies
11 in force as of January 1, 2013, and thereafter, regardless whether the policy was issued or
12 delivered prior to January 1, 2013; (2) that no lapse or termination was effective unless preceded
13 by timely and proper notices of pending lapse or termination; (3) that notices must be sent not only
14 to the policy owner, but also to designees, known assignees, or other persons having an interest in
15 the individual life insurance policy; (4) that all policy owners must be annually provided notice of
16 a right to designate said notice recipients; and (5) that failure to comply with these provisions
17 leaves a policy in force, mandating payment of benefits upon the insured's death. Defendant knew
18 or should have also known there was no official or proper public DOI opinion or guidance that
19 should have been relied upon. Defendant knew, by 2021 if not earlier, that the Statutes did apply to
20 the Policy.

21 122. Despite knowledge of the applicability of these provisions to all policies issued or
22 delivered in California and the impropriety of its actions, Defendant, with the aid and assistance of
23 Does 1 through 10 made the conscious decision, ratified by their managerial agents, officers, and
24 directors, to not comply with the law, to misrepresent the true facts concerning the law, and
25 ultimately to unilaterally terminate the Policy on improper grounds.

26 123. Defendant's bad faith continued when Defendant further made the conscious
27 decision to make no attempt to contact its policy owners whose policies had been illegally
28 terminated or beneficiaries whose claims for benefits had been improperly denied and inform such

1 individuals of Defendant's misconduct, despite knowledge of Defendant's violation of the
2 Statutes. Plaintiff's Policy was in force as of the date of the *McHugh* decision in of 2021 and for
3 many months afterwards. During this time, Defendant could and should have made simple efforts
4 to communicate with Plaintiff and amend the Policy and its procedures involving lapse to conform
5 to the Statutes. When Plaintiff's policy was declared terminated, Defendant continued this fraud
6 and misrepresentation and failed to inform Plaintiff of what the Statutes guaranteed him and what
7 Defendant failed to provide.

8 124. Defendant, by and through its officers and directors and other managerial agents,
9 consciously ignored the application of California law regarding such notices and instituted a
10 business practice and course of conduct designed to intentionally violate such provisions. Knowing
11 these provisions were enacted in California to avoid forfeiture of policies, Defendant, by and
12 through its officers, consciously ignored and continue to consciously ignore the obligations
13 imposed on Defendant to avoid payment of claims and continue to maintain the practice of
14 encouraging unintended lapses of policies.

15 125. Plaintiff has suffered and will continue to suffer injuries, economic and non-
16 economic damages and harm legally caused by Defendant's past and ongoing failure to uphold the
17 terms of the Policy. Plaintiff has also suffered and will continue to suffer consequential economic
18 and non-economic injuries in a nature and amount to be proven at the time of the trial. These
19 injuries include emotional distress, concern, anger, and worry concerning the loss of coverage, as
20 well as how Plaintiff has had to engage in this process merely to regain his coverage and the future
21 benefits he intended for his wife.

22 126. Plaintiff has also been required to retain legal counsel and has and will continue to
23 incur attorney's fees and expenses. Defendant's conduct is the legal cause of the need for these
24 expenditures, for which, along with other actual injuries, damages, and future ongoing injuries and
25 damages, Plaintiff seeks compensation in an amount within the jurisdiction of this Court to be
26 proven at the time of trial. Plaintiff thus seeks full reimbursement of all attorney's fees and
27 expenses incurred to obtain the benefits of the Policy.

28 127. Based on overwhelming and clear evidence, as explained herein, these acts of

1 Defendant will continue until Defendant is brought to account. The actions of Defendant described
2 herein all constitute malice, oppression, and fraud.

3 128. Specifically, Defendant and its officers, directors, and managerial agents, have also
4 made repeated intentional misrepresentations and engaged in active concealment, as heretofore
5 discussed, thus constituting deceit and fraud. In performing these acts, Defendant and its officers,
6 directors, and managerial agents participated or ratified active concealment of the rights of
7 insureds with regards to termination of coverage for nonpayment to avoid incurring liabilities and
8 costs associated with compliance with the law.

9 129. Further, in engaging in these schemes and course of conduct, Defendant is acting in
10 an oppressive fashion, using its wealth, power, and perceived influence, to attempt to coerce
11 customers and beneficiaries to refrain from the costs and risks associated with litigation of this
12 nature. Defendant's oppression is calculated and results from a conscious decision-making process
13 where, at the highest levels in the company, it has been determined that it is more economical to
14 defy compliance with the law and litigate those few policy owners or beneficiaries willing to
15 engage in litigation, than merely comply with the law. The conduct described herein is malicious
16 and consciously undertaken, with a full understanding and appreciation that it is contrary to the
17 law and contrary to sound business practices of legitimate life insurance companies.

18 130. Plaintiff alleges that, consistent with California law, the cumulative effect and
19 injury to others, as well as the economic benefit derived by Defendant from this improper conduct,
20 are relevant and should be considered in the assessment of punitive and/or exemplary damages
21 allowed. The conduct of Defendant, in violation of the express and implied obligations imposed on
22 it, is and remains motivated by Defendant's conscious decision to retain wealth, resulting from
23 decades of predatory business practices aimed at of taking from the elderly, the ill and the
24 misinformed. The nature and extent of those ill-gotten gains, as well as the cumulative financial
25 injury suffered by others, are relevant and important considerations in determining the amount of
26 any punitive or exemplary damages or awards.

27 **XII. PRAYER FOR RELIEF**

28 Plaintiff JAMES FOX, Individually, and on Behalf of the Class, prays for relief against

1 Defendant as follows:

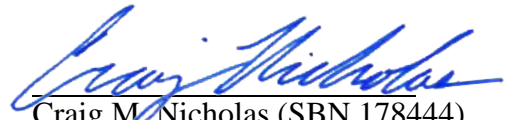
- 2 1. For certification of this action as a class action;
- 3 2. For a declaration of Plaintiff's and the Class's rights pursuant to the insurance
4 policies issued by Defendant and a declaration that Defendant has violated the
5 Statutes;
- 6 3. For an injunction to issue against Defendant, stopping and remedying the ongoing
7 violation of the Statutes, including public injunctive relief;
- 8 4. For economic damages according to proof where available;
- 9 5. For noneconomic damages, according to proof where available;
- 10 6. For restitution or other equitable relief, where available;
- 11 7. For interest where available;
- 12 8. For attorney's fees and all litigation costs and expenses where available; and
- 13 9. For such other and further relief as this Court deems just and proper.

14 Respectfully submitted:

15 Dated: February 27, 2024

NICHOLAS & TOMASEVIC, LLP

16
17 By:



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Attorneys for Plaintiff
JAMES FOX, Individually,
and on Behalf of the Class

DEMAND FOR JURY TRIAL

Plaintiff JAMES FOX, Individually, and on Behalf of the Class, hereby requests a trial by jury.

Dated: February 27, 2024

NICHOLAS & TOMASEVIC, LLP

By: 

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Attorneys for Plaintiff
JAMES FOX, Individually,
and on Behalf of the Class

EXHIBIT "A"

EX. A
001

004 02025 T

Genworth Life and Annuity
PO Box 10720
Lynchburg, VA 24506-0720

**IMPORTANT INSURANCE POLICY INFORMATION:
OPEN IMMEDIATELY**

JAMES W FOX
PO BOX 241
FOLSOM CA 95763-0241

Final notice

Quarterly Premium

May 03, 2022

Term Life Insurance

from Genworth Life and Annuity Insurance
Company

Page 1 of 2

Insured
JAMES W FOX

Agent
ERIC LEE

Policy number
9889764

Customer Service
888 325.5433
M-Th: 8:30 - 6PM ET
F: 9 - 6PM ET
Fax: 888 325.3299
genworth.com

Your life insurance policy's Grace period has ended because the premium was not paid.

The grace period for this premium ended 30 days after the Due Date shown in this Notice.

This means your policy has terminated unless your policy has a nonforfeiture option that continues coverage. See reverse side for details about reinstatement rules.

Manage your policy online whenever it is convenient for you:

- Make premium payments using your checking account
- Change your address
- View information about your policy

To get started, visit www.genworth.com/customerlogin
Please note, we are unable to accept renewal payments by credit card.

	Amount
Payment due	176.80
Total was due by 04/01/2022	\$176.80

Accepting this late payment does not extend the grace period provided in your policy.
Please disregard this notice if payment has been made.

150326 02/01/18

Please detach and remit the Payment coupon below with your payment. See reverse for important information.

Payment coupon

Insured
JAMES W FOX

Total was due by 04/01/2022

BESBIL-0107 CL02LPO-2-20
Policy number
9889764

\$176.80

GENWORTH LIFE AND ANNUITY
PO BOX 740118
CINCINNATI OH 45274-0118

Amount enclosed \$ _____
Please make your check payable to: GENWORTH LIFE AND ANNUITY and write your Policy number in the memo section.

EX. A

002

298897640000401220000176800000000004NON840000000002

**Final notice
Quarterly Premium**

Page 2 of 2

05/03/2022

Insured
JAMES W FOX

Policy number
9889764

No payment coupon?

Send payments to:
GENWORTH LIFE AND ANNUITY
PO BOX 740118
CINCINNATI OH 45274-0118

*Please make your check payable to:
GENWORTH LIFE AND ANNUITY and write your Policy
number in the memo section.*

Important information about your policy

This notice provides your past due amount. It also lists the conditions that allow the reinstatement of your policy without having to provide satisfactory evidence of insurability and good health. This notice does not change the terms of your policy.

To reinstate your policy: (1) payment must be received within 31 days after the expiration of the grace period, (2) the bank must honor the payment on the first deposit attempt, (3) THE INSURED MUST STILL BE LIVING, and (4) if your policy contains a disability income rider the insured must not be totally disabled unless the total disability began before the end of the grace period.

If we do not receive your payment within 31 days after the expiration of the grace period, full reinstatement requirements will be required including satisfactory evidence of insurability.

Your payment is made only if your check or other payment is honored by your financial institution when presented. Your payment must be made payable in U.S. dollars.

To schedule premium withdrawals from your bank account, review the EFT Authorization form on our website.

If you have any questions, please contact our customer service team for assistance.

We may deposit your check electronically.

When you provide a check as payment, you authorize us either to use the information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

If you use this form with your payment, please keep a copy for your records. Please contact customer service for other changes.

Change of address or phone number for policy number 9889764

Address

City

State

Zip

Phone

EXHIBIT B

Ex. B
004



Genworth Life and Annuity
PO Box 10720
Lynchburg, VA 24506-0720

003 02129 T

Payment past due notice

Quarterly Premium
April 02, 2022
Term Life Insurance
from Genworth Life and Annuity Insurance
Company

**IMPORTANT INSURANCE POLICY INFORMATION:
OPEN IMMEDIATELY**

JAMES W FOX
PO BOX 241
FOLSOM CA 95763-0241

Page 1 of 2

Insured
JAMES W FOX

Agent
ERIC LEE

Policy number
9889764

Customer Service
888 325.5433
M-Th: 8:30 - 6PM ET
F: 9 - 6PM ET
Fax: 888 325.3299
genworth.com

Your policy has entered a grace period. Your policy was paid to 04/01/2022.

Your coverage is in its grace period because you did not pay the required premium. The grace period for this premium is 31 days beginning with the Due Date shown in this Notice allowing you extra time to make this payment.

Amount due

Manage your policy online whenever it is convenient for you:

- Make premium payments using your checking account
- Change your address
- View information about your policy

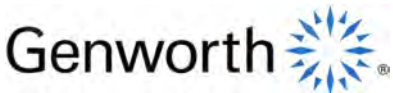
To get started, visit www.genworth.com/customerlogin
Please note, we are unable to accept renewal payments by credit card.

	Amount
Payment due	176.80
Total was due by 04/01/2022	\$176.80

According to our records, we have not yet received the payment payable on the Due Date shown in this notice. Unless you provide your full payment by the end of the grace period, your insurance protection will end unless your policy provides a nonforfeiture option that continues coverage. Please disregard this notice if payment has been made.

150326 02/01/18

Please detach and remit the Payment coupon below with your payment. See reverse for important information.



Payment coupon

Insured
JAMES W FOX

BESBIL-0107 CL02E20-2-0
Policy number
9889764

Total was due by 04/01/2022 **\$176.80**

GENWORTH LIFE AND ANNUITY
PO BOX 740118
CINCINNATI OH 45274-0118

Amount enclosed \$ _____
Please make your check payable to: GENWORTH LIFE AND ANNUITY and write your Policy number in the memo section.



Ex. B

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298897640000401220000176800000000004NON840000000002

**Payment past due notice
Quarterly Premium**

Page 2 of 2

04/02/2022

Insured
JAMES W FOX

Policy number
9889764

No payment coupon?

Send payments to:
GENWORTH LIFE AND ANNUITY
PO BOX 740118
CINCINNATI OH 45274-0118

*Please make your check payable to:
GENWORTH LIFE AND ANNUITY and write your Policy
number in the memo section.*

Important information about your policy

This bill provides the amount you need to pay to maintain your life insurance protection and when that payment is due. This notice does not change the terms of your policy.

This Notice is the only notification of payment due that you will receive prior to the end of the grace period.

Your payment is made only if your check or other payment is honored by your financial institution when presented. Your payment must be made payable in U.S. dollars.

To schedule premium withdrawals from your bank account, review the EFT Authorization form on our website.

If you have any questions, please contact our customer service team for assistance.

We may deposit your check electronically.

When you provide a check as payment, you authorize us either to use the information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

If you use this form with your payment, please keep a copy for your records. Please contact customer service for other changes.

Change of address or phone number for policy number 9889764

Address

City

State

Zip

Phone