

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3 SOUTHERN DIVISION  
4

5 JOYCE WALKER, KIM BRUCE  
6 HOWLETT, and MURIEL SPOONER on  
7 behalf of themselves and all others  
8 similarly situated,

9 Plaintiffs,

10 vs.

11 LIFE INSURANCE COMPANY OF THE  
12 SOUTHWEST, a Texas corporation, and  
13 DOES 1-50,

14 Defendant.

Case No.: 10-09198 JVS(RNBx)

**[PROPOSED] ORDER RE: CONTACTS  
WITH CLASS MEMBERS**

**[PROPOSED] ORDER RE: CONTACTS WITH CLASS MEMBERS**

15 WHEREAS, on September 27, 2011, the Court entered the Second Amended Protective  
16 Order [Dkt. No. 103], pertaining to confidential information produced by the parties;

17 WHEREAS, counsel for both parties wish to implement a procedure for contacting absent  
18 putative class members to protect against putative class members being inappropriately  
19 influenced or subjected to harassment;

20 Accordingly, IT IS HEREBY ORDERED that the terms and conditions of this Order shall  
21 govern contact with absent putative class members by Plaintiffs' counsel, Life Insurance  
22 Company of the Southwest ("LSW")'s counsel, and those acting on their behalf:

23  
24 1. Contact Permitted By Both Sides: Plaintiffs' Counsel, LSW's Counsel, and those acting  
25 on their behalf shall be permitted to initiate informal oral communications with any putative  
26 class member who is not already represented by counsel, regardless of whether their  
27  
28

1 identities are discovered through LSW's records or otherwise, if the procedures set forth  
2 below are followed.

3  
4 2. Script to Be Read to Putative Class Members: Prior to speaking with putative class  
5 members, Plaintiffs' Counsel, LSW's Counsel, and their representatives shall read a  
6 "script," attached as Exhibit A, that will inform the individual:

7 a. That litigation has been commenced against LSW regarding certain of its equity-indexed  
8 universal life policies;

9 b. That the caller is contacting the individual on behalf of [plaintiffs or LSW];

10 c. That the individual does not have any obligation to speak with the caller;

11 d. That the individual is free to end the conversation at any time;

12 e. That a toll-free number has been set up to allow class members to opt-out of receiving  
13 unsolicited communications concerning this litigation or to report harassment; and

14 f. [For putative class members whose contact information was gained through personal  
15 identifying information produced by LSW in this litigation:] that LSW was required to  
16 produce the individual's personal identifying information by Court order.

17  
18 3. Toll-Free Line to Report Harassment: The parties shall set up a toll-free number  
19 administered by a neutral third party that putative class members can call to report  
20 harassment or to opt-out of receiving unsolicited contact concerning this litigation. The cost  
21 of administering the toll-free number shall be shared by the parties.

22  
23 4. Disclosure of Putative Class Member Contact and Depositions: In the event that either  
24 side intends to rely upon testimony from a putative class member in support of their class  
25 certification briefing or at trial, the party shall notify the other side of their intent and  
26 identify such individual(s) no later than April 30, 2012. The other side will then be  
27 permitted to depose such individual(s).

1 5. No Contact with Minors: The parties shall not contact any person that they know or  
2 reasonably ought to know to be under the age of eighteen at the time that the contact  
3 occurs.

4  
5 6. No Contact with Policyholders Who Are Not Class Members: Plaintiffs shall not contact  
6 any LSW policyholder who is not a member of the putative class. For greater certainty, this  
7 includes any individual who is an insured but who is not also a policy owner as well as any  
8 individual whose policy was issued before September 24, 2006.

9  
10 7. No Disruption of Business Operations: This Order shall not prevent LSW or its agents  
11 from acting in the normal course of their business or in any way alter LSW's normal  
12 continuing business operations. Nor shall this Order in any way limit LSW or LSW's  
13 counsel's ability to communicate with authorized LSW agents or LSW employees and  
14 similar persons who are not exclusively customers of LSW.

15  
16 8. No Solicitation: The parties shall not contact putative class members for the purpose of  
17 soliciting clients to represent in this litigation.

18  
19 9. Applicability of Other Orders: The Second Amended Protective Order [Dkt. 103] is  
20 hereby amended to the extent necessary to allow putative class member contact as set forth  
21 herein.

22  
23 IT IS SO ORDERED.

24 Dated: \_\_\_\_\_

25  
26 \_\_\_\_\_  
27 James V. Selna  
28 United States District Judge

**EXHIBIT A: Telephone Script**

Litigation has been commenced against Life Insurance Company of the Southwest, in which plaintiffs allege that LSW SecurePlus Paragon and SecurePlus Provider policies contain inadequate disclosures. I am contacting you on behalf of [plaintiffs/LSW].

[For customers contacted as a result of personal identifying information found in LSW's records:]

Before we speak further, I am required to advise you that, as part of this litigation, LSW has been required to provide plaintiffs' counsel with records kept by LSW that concern information you provided to LSW when you applied for your policy or when you purchased your policy. LSW did not provide any medical records or underwriting materials. All material provided by LSW was subject to a confidentiality order. However, LSW was required to provide these records to plaintiffs' counsel without removing certain identifying information about you, including your name, address, telephone number, and policy number.

I am also required to advise you that you do not have any obligation to speak with me and you have a right to end this conversation at any time.

Additionally, if you would like to ensure that you do not receive any further unsolicited contact related to this litigation, or if you would like to report harassing or abusive phone calls, a toll-free line has been set that will allow you to opt out of receiving unsolicited calls concerning this litigation. That number is: 1-800-xxxxxxx.

Are you willing to speak with me concerning your LSW policy?