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19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 JOYCE WALKER, KIM BRUCE
22 HOWLETT, and MURIEL SPOONER, on
23 behalf of themselves and all others
24 similarly situated,

25 Plaintiffs,

26 v.

27 LIFE INSURANCE COMPANY OF THE
28 SOUTHWEST, a Texas corporation,

Defendant.

CASE NO.: CV 10-9198 JVS (RNBx)

**LIFE INSURANCE COMPANY OF
THE SOUTHWEST'S
SUPPLEMENTAL FILING IN
SUPPORT OF ITS EX PARTE
APPLICATION FOR ENTRY OF
ORDER RE: CONTACTS WITH
PUTATIVE CLASS MEMBERS**

Judge: Hon. James V. Selna
Courtroom: 10C

1 LSW submits this supplemental filing to apprise the Court of additional new
2 information further highlighting the need for an order like the one this Court issued in
3 the *Toyota* multi-district litigation.

4 1. On February 16, 2012, LSW served on Plaintiffs interrogatories seeking,
5 *inter alia*, the names and addresses of recipients of Plaintiffs' letter. *See* Perla
6 Declaration ¶ 2.

7 2. On March 22, 2012, Plaintiffs served their response, providing the names
8 and addresses of 364 recipients. *See* Perla Declaration ¶ 2.

9 3. Of the 364 recipients, 86 of them were insureds who are not policy owners,
10 and have never (and will never) be members of the putative class. *See* Perla
11 Declaration ¶ 3.

12 4. Additionally, more than 10 percent of the recipients are minors (who were
13 insureds, not policy owners). *See* Perla Declaration ¶ 4.

14 5. Thus, a material portion (approximately 24 percent) of Plaintiffs' mailing
15 — stating untruthfully that a case had been filed “on your behalf” — went to those who
16 will never be members of any class in this case, including many young children.

17 6. Plaintiffs had documentation that would have enabled them to avoid this
18 problem. Many months ago, LSW produced policy files pertaining to the 364 policies
19 at issue. Among other documents, each policy file contains an application and a policy
20 data section. These documents indicate the identities of the owner (*i.e.*, the putative
21 class member) and the insured. They also indicate the age of the insured. An example
22 of an Application (pertaining to a Recipient) that repeatedly identifies the insured as a
23 minor is attached to the Declaration of Timothy Perla as Exhibit B. Thus, there is, in
24 LSW's view, no reasonable excuse for mailing 86 people who are not in the putative
25 class, including minors.

1 7. To prevent recurrences, the Court should enter LSW's Proposed Order
2 providing even-handed and reciprocal ground rules for contacting absent members of
3 the putative class.

4 DATED: March 23, 2012

WILMER CUTLER PICKERING HALE AND
DORR LLP

7 By: /s/ Jonathan A. Shapiro

Jonathan A. Shapiro

8 Andrea J. Robinson

9 Timothy J. Perla

10 Attorneys For Defendant

Life Insurance Company of the Southwest

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Wilmer Cutler Pickering Hale and Dorr LLP, 950 Page Mill Road, Palo Alto, CA 94304. On March 23rd, 2012 I served the within document(s):

LIFE INSURANCE COMPANY OF THE SOUTHWEST’S SUPPLEMENTAL FILING IN SUPPORT OF ITS EX PARTE APPLICATION FOR ENTRY OF ORDER RE: CONTACTS WITH PUTATIVE CLASS MEMBERS

I placed the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Palo Alto, CA addressed as set forth below.

I personally caused to be emailed the document(s) listed above to the person(s) at the address(es) set forth below.



I electronically filed the document(s) listed above via the CM/ECF system.

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/s/ Jonathan A. Shapiro
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