

1 JONATHAN A. SHAPIRO (257199)
2 WILMER CUTLER PICKERING HALE AND DORR LLP
3 950 Page Mill Road
4 Palo Alto, CA 94304
5 Tel: (650) 858-6101
6 Fax: (650) 858-6100
7 jonathan.shapiro@wilmerhale.com

8 ANDREA J. ROBINSON (PRO HAC VICE)
9 TIMOTHY J. PERLA (PRO HAC VICE)
10 WILMER CUTLER PICKERING HALE AND DORR LLP
11 60 State Street
12 Boston, MA 02109
13 Tel: (617) 526-6000
14 Fax: (617) 526-5000
15 andrea.robinson@wilmerhale.com
16 timothy.perla@wilmerhale.com

17 Attorneys for Defendant Life Insurance
18 Company of the Southwest

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.

LIFE INSURANCE COMPANY OF THE
SOUTHWEST, a Texas corporation,

Defendant.

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

NOTICE OF ERRATA

Judge: Hon. James V. Selna
Date: Sept. 18, 2012
Time: 1:30p.m.
Courtroom: 10C

NOTICE OF ERRATA

1
2 Defendant Life Insurance Company of the Southwest (“LSW”) submits this
3 Notice of Errata to notify the Court and Plaintiffs Joyce Walker, Muriel Lynn Spooner,
4 and Kim Bruce Howlett (collectively, “Plaintiffs”) that the documents filed on October 2,
5 2012 as Document Numbers 346-1 and 346-2 (LSW’s Supplemental Memorandum and
6 the Supplemental Declaration of Timothy Perla) contained an inadvertent error. In one
7 instance in the Declaration and once in the Memorandum, LSW inadvertently referred to
8 illustrations when it meant to refer to policy files.

9 This correction does not alter the point— *i.e.*, examining illustration signature
10 dates rather than print dates significantly reduces the number of files that indicate
11 illustration use prior to or on the application date.

12 The corrections are as follows:

13 **1. Supplemental Memorandum**

14 **a. As Filed (Dkt. 346-1 at 7)**

15 The sample contains 122 illustrations for which print date precedes or matches
16 application date (*i.e.*, what Plaintiffs deemed to be sales illustrations). Of those, 30 bear a
17 signature date after application date. *See* Perla Dec. at 5.

18 **b. Corrected**

19 The Sample contains 122 files containing illustrations for which the print date
20 precedes or matches application date (*i.e.*, what Plaintiffs deemed to be sales
21 illustrations). Of those, there are 30 files for which the first illustration signature date falls
22 after application date. *See* Perla Dec. at 5.

23 **2. Supplemental Declaration of Timothy Perla (Dkt. 346-2)**

24 **a. As Filed (Dkt. 346-2 ¶ 5)**

25 The Sample contains 122 illustrations for which the print date precedes or matches
26 application date (less than 31% of the time). Of those, 30 bear a signature date after
application date.

b. Corrected

1 The Sample contains 122 files containing illustrations for which the print date
2 precedes or matches application date (less than 31% of the time). Of those, there are 30
3 files for which the first illustration signature date falls after application date.

4 * * *

5 Attached to this Notice of Errata as Exhibits 1 and 2, respectively, are corrected
6 versions of current Document Numbers 346-1 and 346-2.

7 DATED: October 11, 2012

Respectfully submitted,

8 WILMER CUTLER PICKERING HALE AND
DORR LLP

9
10 By: /s/ Jonathan A. Shapiro

Jonathan A. Shapiro

11 Andrea J. Robinson

12 Timothy J. Perla

13 Attorneys For Defendant

Life Insurance Company of the Southwest

1 **PROOF OF SERVICE**

2 I am a resident of the Commonwealth of Massachusetts, over the age of eighteen
3 years, and not a party to the within action. My business address is Wilmer Cutler
4 Pickering Hale and Dorr LLP, 60 State Street, Boston, Massachusetts 02109. On October
5 11, 2012, I served the within document(s):

6 **NOTICE OF ERRATA**

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

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

12 I emailed the document(s) listed above to the person(s) at the address(es)
13 set forth below.

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

16 Brian P. Brosnahan
17 (bbrosnahan@kasowitz.com)
18 Charles N. Freiberg j
19 (cfreiberg@kasowitz.com)
20 Jacob N. Foster
21 (jfoster@kasowitz.com)
22 KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
23 101 California Street, Suite 2300
24 San Francisco, CA 94111

25 Harvey R. Levine
26 (lsmh@levinelaw.com)
LEVINE & MILLER
550 West C. Street, Suite 1810
San Diego, CA 92101-8596

/s/ Joel A. Fleming
Joel A. Fleming