EXHIBIT 2: [CORRECTED] DECLARATION OF TIMOTHY PERLA

	Case 2:10-cv-09198-JVS -RNB Document 349 #:1543	
1	Jonathan A. Shapiro (257199) WILMER CUTLER PICKERING HALE A	ND DORR LLP
2	950 Page Mill Road	
3	Palo Alto, California 93304 Tel: (650) 858-6101	
4	Fax: (650) 858-6100 jonathan.shapiro@wilmerhale.com	
5	Andres I. Debinson (number size)	
6	Andrea J. Robinson (pro hac vice) Timothy J. Perla (pro hac vice)	
7	WILMER CUTLER PICKERING HALE A 60 State Street	ND DORR LLP
8	Boston, Massachusetts 02109 Tel: (617) 526-6000	
9	Fax: (617) 526-5000 andrea.robinson@wilmerhale.com	
10	timothy.perla@wilmerhale.com	
11	Attorneys for Defendant Life Insurance	
12	Company of the Southwest	DISTRICT COURT
13		DISTRICT COURT
14		CT OF CALIFORNIA ERN DIVISION
15	50011	
	JOYCE WALKER, KIM BRUCE	Case No.: CV 10-9198-JVS(RNBx)
16	HOWLETT, and MURIEL SPOONER, on behalf of themselves and all others	
17	similarly situated,	[CORRECTED] SUPPLEMENTAL
18	Plaintiffs,	DECLARATION OF TIMOTHY PERLA IN OPPOSITION TO PLAINTIFFS'
19	vs.	MOTION FOR CLASS CERTIFICATION
20	LIFE INSURANCE COMPANY OF THE	
21	SOUTHWEST, a Texas corporation, and	
22	DOES 1-50	
23	Defendant.	
24		ATION OF TIMOTHY PERLA IN OPPOSITION S CERTIFICATION, 10-09198-JVS(RNBx)

DECLARATION OF TIMOTHY PERLA

I, Timothy Perla, declare as follows:

 I am an attorney duly licensed to practice law in the Commonwealth of Massachusetts. I am a Counsel at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel for Defendant Life Insurance Company of the Southwest ("LSW") in the above-entitled action. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would testify competently thereto.

2. On August 24, 2012, I submitted a Declaration concerning the sample of 400 policy files produced in this matter. I conducted a further review of the files in response to Plaintiffs' September 27, 2012 supplemental filing. I now submit the following additional information in support of LSW's supplemental filing in opposition to class certification.

3. Policy files sometimes contain an Agent Report. Part 1, Question 7 of the Agent Report asks the agent to "List any sales materials, including illustrations, used relating to the new application." In 33 instances, the response lists only materials other than an illustration, reference to quick calc, or to the IC software. My understanding is that Plaintiffs treated these as agent reports that contained no evidence concerning illustration use. This is incorrect: the question specifically asks about illustration use.

4. The Sample contains 491 signed and dated illustrations. In 434 instances(88% of the time), the signature dates falls after the print date. The signature date falls a median of 12 days after the print date.

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1	5. 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 <i>after</i> application date.	
4	6. 189 of the 400 policy files in the Sample contain more than one illustration.	
5	I declare under the penalty of perjury that the foregoing is true and correct.	
6	Executed this 11th day of October, 2012, at Boston, Massachusetts.	
7	Executed this 11th day of October, 2012, at Doston, Massachusetts.	
8	By: <u>/s/ Timothy Perla</u> Timothy Perla	
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24	- 3 -	
	[CORRECTED] SUPPLEMENTAL DECLARATION OF TIMOTHY PERLA IN OPPOSITION TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION, 10-09198 JVS(RNBx) ActiveUS 101844588v.1	

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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 Pickering Hale and Dorr LLP, 60 State Street, Boston, Massachusetts 02109. On October 11, 2012, I served the within document(s):		
4			
5 6	[CORRECTED] SUPPLEMENTAL DECLARATION OF TIMOTHY PERLA IN OPPOSITION TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION I placed the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail addressed as set forth below.		
7			
8	Tuny propula, in the Onited States mail addressed as set forth below.		
9	I personally caused to be hand delivered the document(s) listed above to the person(s) at the address(es) set forth below.		
10 11	I emailed the document(s) listed above to the person(s) at the address(es) set forth below.		
11	I electronically filed the document(s) listed above via the CM/ECF system. \mathbf{X}		
13	Brian P. Brosnahan		
14	(bbrosnahan@kasowitz.com) Charles N. Freiberg		
15	(cfreiberg@kasowitz.com) Jacob N. Foster		
16	(jfoster@kasowitz.com)		
17	KASOWITZ, BENSON, TORRES & FRIEDMAN LLP 101 California Street, Suite 2300		
18	San Francisco, CA 94111		
19	Harvey R. Levine		
20	(lsmh@levinelaw.com) LEVINE & MILLER		
21	550 West C. Street, Suite 1810 San Diego, CA 92101-8596		
22			
22	<u>/s/ Joel A. Fleming</u> Joel A. Fleming		
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∠⊤	- 4 - [CORRECTED] SUPPLEMENTAL DECLARATION OF TIMOTHY PERLA IN OPPOSITION TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION, 10-09198 JVS(RNBx) ActiveUS 101844588v.1		