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UNITED STATES DISTRICT COURT

**CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

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

Plaintiffs,

vs.

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

Defendant.

Case No.: CV 10-9198-JVS(RNBx)

**DECLARATION OF CAITLIN
MONAHAN CONCERNING POLICY
FILE REVIEW**

DECLARATION OF CAITLIN MONAHAN

I, Caitlin Monahan, declare as follows:

1. I am an attorney duly licensed to practice law in the Commonwealth of Massachusetts. I am an Associate 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. LSW has produced at least 42,554 policy files to the Plaintiffs.

3. We have not reviewed all of those policy files in connection with this litigation.¹ Given the volume of material, even if we wanted to I doubt that we could conduct a full review on anything other than a very extended schedule (months or years depending on how many people were assigned to the task).

4. However, I and other attorneys working with me have reviewed some policy files, less than 2% of them. I submit this Declaration in order to provide certain observations from that review.

¹ They were produced without substantial review pursuant to a claw back agreement entered by Magistrate Judge Block.

1 **I. Contents of Policy Files**

2 5. The policy files contain at least 8,885,248 pages. The policy files
3 contain on average approximately 209 pages each. The largest policy file contains
4 1,482 pages. The number of pages per policy file varies widely, with the standard
5 deviation being 78.9 pages.

6 6. Policy files contain a wide variety of documents. They include, but
7 are not limited to:

- 8 • Applications
- 9 • Sales Illustration Certificates
- 10 • Agent's Reports
- 11 • Illustrations
- 12 • Records of correspondence with policy holders
- 13 • Correspondence with agents
- 14 • Internal company correspondence
- 15 • Policy review checklists
- 16 • Policy transmittal forms
- 17 • Policy & exclusion instructions
- 18 • Materials created by agents
- 19 • Handwritten letters, notes, and comments
- 20
- 21
- 22
- 23

1 7. There also does not seem to be any systematic ordering to the
2 documents within each file, or any other consistent organization of the materials
3 within those files.

4 8. For instance, sometimes an illustration and its signature page have
5 been separated by other unrelated documents. Conversely, the signature page from
6 one illustration may be tacked onto a different illustration. Attached hereto as
7 Exhibit A is a true and correct copy of excerpts from the file for policy LS0248396,
8 which contains a signature page from one illustration that is tacked onto a different
9 illustration.
10 illustration.

11 **II. File Review and Analysis Can Be Time Consuming Given the**
12 **Complexity of The Files**

13 9. Someone reviewing the files in order to attempt to ascertain the timing
14 of illustration receipt would encounter many instances in which potentially
15 relevant information is missing, incomplete, or seemingly contradictory. This
16 information would require time to evaluate. Below are some examples from our
17 review of less than 2% of the files.
18

19 10. Attached hereto as Exhibit B is a true and correct copy of excerpts
20 from the file for policy LS0152759, which contains multiple applications; those
21 applications contain contradictory indications concerning illustration use.
22
23

1 11. Attached hereto as Exhibit C is a true and correct copy of excerpts
2 from the file for policy LS0171145, which contains applications from different
3 states.

4 12. Attached hereto as Exhibit D is a true and correct copy of excerpts
5 from the file for policy LS0237539, which contains an application and illustrations
6 for two different types of policies.
7

8 13. Attached hereto as Exhibit E is a true and correct copy of excerpts
9 from the file for policy LS0152759, which contains evidence of six different
10 illustrations.

11 14. Attached hereto as Exhibit F is a true and correct copy of excerpts
12 from the file for policy LS0175010, which contains an illustration signed on two
13 different dates.
14

15 15. Attached hereto as Exhibit G is a true and correct copy of excerpts
16 from the file for policy LS0181364, which contains an application signed on two
17 different dates.

18 16. Attached hereto as Exhibit H is a true and correct copy of excerpts
19 from the file for policy LS0141433, which does not contain a pre-sale illustration,
20 but contains an application suggesting illustration use.
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1 17. Attached hereto as Exhibit I is a true and correct copy of excerpts
2 from the file for policy LS0185741, which contains an illustration in which the
3 creation date and signature date are different.

4 18. Attached hereto as Exhibit J is a true and correct copy of excerpts
5 from the file for policy LS0188390, which contains an illustration bearing a
6 signature date that pre-dates the illustration's creation date.
7

8 19. Attached hereto as Exhibit K is a true and correct copy of excerpts
9 from the file for policy LS0178299, which contains an illustration that is missing
10 pages.

11 20. Attached hereto as Exhibit L is a true and correct copy of excerpts
12 from the file for policy LS0145682, which contains an Agent's Report² that
13 includes information about illustration use which contradicts other file contents.
14

15 21. Some files contain annotations that will require careful evaluation.
16 An illustration may note that it is a "revision," even though the "original"
17 illustration may not be in the file. Attached hereto as Exhibit M is a true and
18 correct copy of excerpts from the file for policy LS0204769, which contains an
19 application on which the note "NA" is written next to the Sales Illustration
20 Certification.
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22 _____
23 ² Agent's Reports, among other things, call for a listing of documents presented.

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22. Attached hereto as Exhibit N is a true and correct copy of excerpts from the file for policy LS0202372, which contains internal correspondence referencing an illustration.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 29th day of April, 2013, at Boston, Massachusetts.

By: /s/ Caitlin Monahan
Caitlin Monahan