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Attorneys for Defendant  
STANDARD INSURANCE COMPANY

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JANICE SCHMIDT, on behalf of herself and )  
all others similarly situated, )

Plaintiff, )

vs. )

STANDARD INSURANCE COMPANY, )  
erroneously named as STANDARD LIFE )  
INSURANCE COMPANY, PROTECTIVE )  
LIFE INSURANCE COMPANY, and DOES )  
1 TO 50, inclusive, )

Defendants. )

CASE NO. 1:21-cv-01784-JLT-SAB

**DEFENDANT STANDARD INSURANCE  
COMPANY'S ANSWER TO AMENDED  
CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL**

1  
2 Defendant Standard Insurance Company (“Standard”), through undersigned counsel, respectfully  
3 submits this Answer to the Amended Class Action Complaint and Demand for Jury Trial, Doc. 39-1 (the  
4 “Amended Complaint”) filed by Plaintiffs Janice Schmidt and Judy A. Vann-Eubanks individually and  
5 on behalf of the proposed class (“Plaintiffs”). Unless expressly admitted in this Answer, Standard denies  
6 the material allegations of the Amended Complaint and demands strict proof thereof. Subject to these  
7 denials and the affirmative defenses set forth herein, Standard responds to the individually numbered  
8 allegations of the Amended Complaint as follows:

9 **I. NATURE OF THE CASE**

10 1. Denied. Standard specifically denies all allegations that it has violated any statute,  
11 regulation, law, or insurance policy provision in any way.

12 2. The allegations of paragraph 2 include legal conclusions to which no response is required;  
13 to the extent a response is deemed necessary, Standard denies the allegations in paragraph 2. California  
14 Insurance Code §§ 10113.71 and 10113.72 (collectively, the “Statutes”) speak for themselves. Standard  
15 denies each and any characterization of the Statutes that is inconsistent with the Statutes themselves.  
16 Standard specifically denies any implied allegation that it has violated any statute, regulation, law, or  
17 insurance policy provision in any way. Standard denies any other allegations in paragraph 2.

18 3. The allegations of paragraph 3 include legal conclusions to which no response is required;  
19 to the extent a response is deemed necessary, Standard denies the allegations in paragraph 3. The Statutes  
20 speak for themselves. Standard specifically denies any implied allegation that it has violated any statute,  
21 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
22 paragraph 3.

23 4. The allegations of paragraph 4 include legal conclusions to which no response is required;  
24 to the extent a response is deemed necessary, Standard lacks knowledge or information sufficient to form  
25 a belief about whether the “author” of the Statutes actually made the statement listed in paragraph 4, and  
26 therefore denies it. The Statutes speak for themselves. Standard denies each and any characterization of  
27 the Statutes that is inconsistent with the Statutes themselves. Standard specifically denies all allegations  
28 that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard denies

any other allegations in paragraph 4.

5. The allegations of paragraph 5 include legal conclusions to which no response is required; to the extent a response is deemed necessary, Standard denies the allegations in paragraph 5.

6. Denied. Standard specifically denies that it has violated any statute, regulation, law, or insurance policy provision in any way.

7. The allegations of paragraph 7 include legal conclusions to which no response is required; to the extent a response is deemed necessary, Standard denies that the Statutes in their entirety apply to “all policies.” The California Supreme Court’s decision in *McHugh v. Protective Life Insurance Company*, 12 Cal. 5th 213 (2021), speaks for itself. Standard denies any other allegations in paragraph 7.

8. The allegations of paragraph 8 include legal conclusions to which no response is required; to the extent a response is deemed necessary, Standard denies that the California Supreme Court’s decision in *McHugh v. Protective Life Insurance Company*, 12 Cal. 5th 213 (2021), “followed” (except temporally) the decisions cited in paragraph 8. The trial-court decisions cited in paragraph 8 speak for themselves and are not precedential. Standard specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard denies any other allegations in paragraph 8.

9. The allegations of paragraph 9 include legal conclusions to which no response is required; to the extent a response is deemed necessary, Standard denies that the Ninth Circuit’s unpublished, non-precedential memorandum in *Thomas v. State Farm Life Insurance Co.*, 20-55231, 2021 WL 4596286 (9th Cir. Oct. 6, 2021), “followed” (except temporally) or “expanded” the California Supreme Court’s decision in *McHugh v. Protective Life Insurance Company*, 12 Cal. 5th 213 (2021). The Ninth Circuit’s unpublished, non-precedential memorandum in *Thomas* speaks for itself. Standard denies any other allegations in paragraph 9.

10. Denied. Standard specifically denies that it has violated any statute, regulation, law, or insurance policy provision in any way.

11. Denied. Standard specifically denies that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiffs, and the other persons that

1 Plaintiffs purport to represent, have suffered any damage whatsoever.

2 12. Standard lacks knowledge or information sufficient to form a belief about the truth of the  
3 allegations in paragraph 12 relating to Arthur James Schmidt's ("Mr. Schmidt") death, and therefore  
4 denies them. Standard denies all other allegations in paragraph 12. Standard specifically denies all  
5 allegations that it has violated any statute, regulation, law, or insurance policy provision in any way.  
6 Standard further specifically denies that Plaintiff Janice Schmidt and Mr. Schmidt were married on  
7 January 30, 2018. The remaining allegations of this paragraph are not directed to Standard.

8 13. Denied. Standard specifically denies all allegations that it has violated any statute,  
9 regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiffs, and the  
10 other persons that Plaintiffs purport to represent, have suffered any harm whatsoever.

## 11 II. JURISDICTION AND VENUE

12 14. Standard does not contest that this Court has subject-matter jurisdiction under 28 U.S.C.  
13 § 1332 to hear Plaintiffs' claims against Standard. Standard denies all other allegations in paragraph 14.

14 15. Standard admits that, upon information and belief, Plaintiff Janice Schmidt was a citizen  
15 and domiciliary of the State of California at the time this civil action was filed. Standard lacks knowledge  
16 or information sufficient to form a belief about the truth of the remaining allegations in paragraph 15,  
17 and therefore denies them.

18 16. Standard admits that it is incorporated under the laws of Oregon with its principal place  
19 of business in Portland, Oregon. The remaining allegations of this paragraph are not directed to Standard.

20 17. Denied.

21 18. Standard does not contest that the amount in controversy exceeds \$75,000.00, exclusive  
22 of interest and costs.

23 19. Standard does not contest that venue is proper in this Court with respect to the claims  
24 against Standard. Standard lacks knowledge or information sufficient to form a belief about the truth of  
25 the allegations in paragraph 19 relating to Plaintiff Schmidt's residence, and therefore denies them.  
26 Standard denies all other allegations in paragraph 19.

27 20. Standard does not contest that this Court has personal jurisdiction to hear Plaintiffs' claims  
28 against Standard. Standard specifically denies all allegations that it has violated any statute, regulation,

1 law, or insurance policy provision in any way. Standard denies all other allegations in paragraph 20.

### 2 **III. THE PARTIES**

3 21. Standard admits only that, prior to policy termination, Plaintiff Schmidt was named a  
4 beneficiary of the insurance policy bearing policy no. SD0530951 that was issued by Standard (not  
5 “Standard Life Insurance Company”) on the life of Mr. Schmidt (the “Policy”). Standard specifically  
6 denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any  
7 way, and Standard further specifically denies that the Policy was in force and effect on the date of the  
8 Mr. Schmidt’s purported death. Standard lacks knowledge or information sufficient to form a belief  
9 about the truth of the allegations in paragraph 21 relating to Ms. Eubanks and the Protective policy on  
10 Robert Eubanks, as well as Plaintiff Schmidt’s residence, and therefore denies them. Standard denies all  
11 other allegations in paragraph 21.

12 22. Denied.

13 23. The allegations of this paragraph are not directed to Standard

### 14 **IV. FACTUAL ALLEGATIONS**

15 24. Admitted. The Statutes speak for themselves.

16 25. The allegations of paragraph 25 include legal conclusions to which no response is  
17 required. The Statutes speak for themselves. Standard denies each and any characterization of the  
18 Statutes that is inconsistent with the Statutes themselves.

19 26. The allegations of paragraph 26 include legal conclusions to which no response is  
20 required; to the extent a response is deemed necessary, Standard denies the allegations in paragraph 26.  
21 The Statutes speak for themselves. Standard denies each and any characterization of the Statutes that is  
22 inconsistent with the Statutes themselves. Standard specifically denies all allegations that it has violated  
23 any statute, regulation, law, or insurance policy provision in any way, and Standard further specifically  
24 denies the allegation that only the quoted portions of the Statutes are “pertinent.” Standard denies any  
25 other allegations in paragraph 26.

26 27. Denied. Standard specifically denies all allegations that it has violated any statute,  
27 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
28 paragraph 27.

1           28.     Denied. Standard specifically denies all allegations that it has violated any statute,  
2 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
3 paragraph 28.

4           29.     Denied. Standard specifically denies all allegations that it has violated any statute,  
5 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
6 paragraph 29.

7           30.     Denied. Standard specifically denies all allegations that it has violated any statute,  
8 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
9 paragraph 30.

10          31.     Standard admits that the Policy insured Mr. Schmidt and Plaintiff Schmidt was named as  
11 a beneficiary of the Schmidt Policy prior to its termination. “Standard Life Insurance Company” did not  
12 issue the Policy. Standard specifically denies all allegations that it has violated any statute, regulation,  
13 law, or insurance policy provision in any way. The remaining allegations of this paragraph are not  
14 directed to Standard. Standard denies any remaining allegations in paragraph 31.

15          32.     Denied as written. “Standard Life Insurance Company” did not issue the Schmidt Policy,  
16 and Protective did not assume the servicing of policies from “Standard Life Insurance Company.” The  
17 remaining allegations of this paragraph are not directed to Standard. To the extent that they are, Standard  
18 denies them.

19          33.     Denied. The Schmidt Policy speaks for itself. Standard denies each and any  
20 characterization of the Schmidt Policy that is inconsistent with the Schmidt Policy itself. Standard  
21 specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy  
22 provision in any way, and Standard further specifically denies that the Policy could “renew” by payment  
23 of premiums. The remaining allegations of this paragraph are not directed to Standard. To the extent  
24 they are, Standard denies them. Standard denies any remaining allegations in paragraph 33.

25          34.     Denied as written.

26          35.     Standard lacks information sufficient to form a belief about the truth of the allegations in  
27 paragraph 35, and therefore denies them.

28          36.     Denied. Standard specifically denies all allegations that it has violated any statute,

1 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
2 paragraph 36.

3 37. Denied. Standard specifically denies all allegations that it has violated any statute,  
4 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
5 paragraph 37.

6 38. Standard lacks knowledge or information sufficient to form a belief about the truth of the  
7 allegations in paragraph 38.

8 39. The allegations of paragraph 39 include legal conclusions to which no response is  
9 required; to the extent that a response is deemed necessary, Standard admits that no death benefit is  
10 payable under the Policy. Standard specifically denies all allegations that it has violated any statute,  
11 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
12 paragraph 39.

13 40. Standard admits that the court decisions in *McHugh*, *Bentley*, and *Thomas* are matters of  
14 public record. Standard specifically denies any implied allegation that it has violated any statute,  
15 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
16 paragraph 40.

17 41. Standard admits Protective Life Insurance Company is the defendant in the *McHugh*  
18 matter, and Standard further admits the *Thomas* decision is a matter of public record. Standard  
19 specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy  
20 provision in any way. Standard denies any other allegations in paragraph 41.

21 42. Standard admits only that Plaintiffs have not been paid the death benefit under the  
22 terminated Policies; no such benefits are payable. Standard specifically denies all allegations that it has  
23 violated any statute, regulation, law, or insurance policy provision in any way. Standard further denies  
24 that Plaintiff, and the other persons that Plaintiffs purport to represent, have suffered any harm or damage  
25 whatsoever. Standard denies any other allegations in paragraph 42.

## 26 V. CLASS ACTION ALLEGATIONS

27 43. The description of the proposed class speaks for itself. The definitions of the proposed  
28 class speak for themselves. Standard specifically denies that certification of any class is appropriate

under applicable law. Standard specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard denies all other allegations in paragraph 43.

44. The allegations of paragraph 44 do not require a response. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 44.

45. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 45.

46. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 46.

47. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 47.

48. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 48.

49. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 49.

50. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 50.

51. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 51.

52. Denied. Standard specifically denies that certification of any class is appropriate under applicable law. Standard denies all other allegations in paragraph 52.

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## **VI. CAUSES OF ACTION**

### **FIRST CAUSE OF ACTION**

#### **BREACH OF CONTRACTUAL DUTY TO PAY A COVERED CLAIM<sup>1</sup>**

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<sup>1</sup> The First Cause of Action of the Complaint includes a heading (summarizing Plaintiff's legal argument) to which no response is required. To the extent a response is required, Standard denies the



1 (ON BEHALF OF THE CLASS)

2 53. Standard incorporates its responses to the foregoing paragraphs as if set forth fully in this  
3 cause of action.

4 54. Denied. Standard specifically denies all allegations that it has violated any statute,  
5 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
6 paragraph 54.

7 55. Denied. Standard specifically denies all allegations that it has violated any statute,  
8 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
9 paragraph 55.

10 56. Denied. Standard specifically denies all allegations that it has violated any statute,  
11 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
12 paragraph 56.

13 57. Standard specifically denies all allegations that it has violated any statute, regulation, law,  
14 or insurance policy provision in any way. Standard further denies that Plaintiffs, and the other persons  
15 that Plaintiffs purport to represent, have suffered any harm or damage whatsoever. Standard denies any  
16 other allegations in paragraph 57.

17 //

18 ////

19 SECOND CAUSE OF ACTION

20 BAD FAITH BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR

21 DEALING IN INSURANCE POLICY<sup>2</sup>

22 (ON BEHALF OF THE CLASS)

23 58. Standard incorporates its responses to the foregoing paragraphs as if set forth fully in this  
24 cause of action.

25 \_\_\_\_\_  
26 allegations in the heading and denies that Plaintiffs, and those other persons that Plaintiffs purport to  
represent, are entitled to any relief whatsoever.

27 <sup>2</sup> The Second Cause of Action of the Complaint includes a heading (summarizing Plaintiff's legal  
28 argument) to which no response is required. To the extent a response is required, Standard denies the  
allegations in the heading and denies that Plaintiffs, and those other persons that Plaintiffs purport to  
represent, are entitled to any relief whatsoever.

1           59.     The allegations of paragraph 59 include legal conclusions to which no response is  
2 required. Standard specifically denies any implied allegation that it has violated any implied duty of  
3 good faith and fair dealing to Plaintiffs and those other persons that Plaintiffs purport to represent.

4           60.     Denied. Standard specifically denies all allegations that it has violated any statute,  
5 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
6 paragraph 60.

7           61.     Denied. Standard specifically denies all allegations that it has violated any statute,  
8 regulation, law, or insurance policy provision in any way. Standard denies any other allegations in  
9 paragraph 61.

10           a. Denied. Standard specifically denies all allegations that it has violated any statute,  
11 regulation, law, or insurance policy provision in any way. Standard denies any other  
12 allegations in paragraph 61(a).

13           b. Denied. Standard specifically denies all allegations that it has violated any statute,  
14 regulation, law, or insurance policy provision in any way. Standard denies any other  
15 allegations in paragraph 61(b).

16           c. Denied. Standard specifically denies all allegations that it has violated any statute,  
17 regulation, law, or insurance policy provision in any way. Standard denies any other  
18 allegations in paragraph 61(c).

19           d. Denied. Standard specifically denies all allegations that it has violated any statute,  
20 regulation, law, or insurance policy provision in any way. Standard denies any other  
21 allegations in paragraph 61(d).

22           e. Denied. Standard specifically denies all allegations that it has violated any statute,  
23 regulation, law, or insurance policy provision in any way. Standard denies any other  
24 allegations in paragraph 61(e).

25           62.     Denied. Standard specifically denies all allegations that it has violated any statute,  
26 regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiff, and the  
27 other persons that Plaintiffs purport to represent, are entitled to any relief whatsoever. Standard denies  
28 any other allegations in paragraph 62.

63. Denied. Standard specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiff, and the other persons that Plaintiffs purport to represent, are entitled to any relief whatsoever. Standard denies any other allegations in paragraph 63.

64. Denied. Standard specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiff, and the other persons that Plaintiffs purport to represent, are entitled to any relief whatsoever. Standard denies any other allegations in paragraph 64.

65. Denied. Standard specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiff, and the other persons that Plaintiffs purport to represent, are entitled to any relief whatsoever. Standard denies any other allegations in paragraph 65.

66. Denied. Standard specifically denies all allegations that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard further denies that Plaintiff, and the other persons that Plaintiffs purport to represent, are entitled to any relief whatsoever. Standard denies any other allegations in paragraph 66.

67. The allegations in paragraph 67 include legal conclusions to which no response is required. Standard lacks knowledge or information sufficient to form a belief about the truth of the statement quoted in paragraph 67, and therefore denies it. Standard denies any implied allegation that it has violated any statute, regulation, law, or insurance policy provision in any way. Standard denies any other allegations in paragraph 67.

#### **PRAYER FOR RELIEF**

Standard denies that Plaintiffs, and those other persons that Plaintiffs purport to represent, are entitled to any of the relief sought in Paragraphs (A) through (F) of the Prayer for Relief section of the Amended Complaint. Standard further denies that Plaintiff, and those other persons that Plaintiffs purport to represent, are entitled to any relief whatsoever from Standard.

#### **JURY DEMAND**

Plaintiffs' demand for a jury trial does not require a response.

1 **AFFIRMATIVE AND OTHER DEFENSES**

2 Having answered the individually numbered paragraphs of Plaintiffs' Amended Complaint,  
3 Standard asserts the following defenses. By setting forth these defenses, Standard does not assume the  
4 burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to  
5 Plaintiffs and those persons Plaintiffs purport to represent. Moreover, nothing stated herein is intended  
6 or shall be construed as an admission that any particular issue or subject matter is relevant to Plaintiffs'  
7 allegations.

8 1. The Amended Complaint, and each purported claim therein, fails to state a claim against  
9 Standard on which relief can be granted.

10 2. Standard asserts that Plaintiffs have failed to join necessary and indispensable parties to  
11 this suit.

12 3. Standard denies the material allegations of the Amended Complaint and demands strict  
13 proof thereof.

14 4. The so-called "renewal principle" discussed in *Thomas v. State Farm Insurance Co.*, 424  
15 F. Supp. 3d 1018 (S.D. Cal. 2019) (Bashant, J.), and *Bentley v. United of Omaha Life Insurance Co.*, 371  
16 F. Supp. 3d 723 (C.D. Cal. 2019) (Gee, J.), does not apply to the policies at issue here.

17 5. Plaintiffs' interpretation of the Statutes is unconstitutional insofar as the United States and  
18 California Constitutions both prohibit the passage of any law impairing the obligation of contracts. U.S.  
19 Const., Art. I, § 10, cl. 1 ("No State shall . . . pass any . . . ex post facto law, or law impairing the  
20 obligation of contracts."); Cal. Const., Art. I, § 9 ("A bill of attainder, ex post facto law, or law impairing  
21 the obligation of contracts may not be passed.").

22 6. California Insurance Code §§ 10113.71 and 10113.72 do not create a private right of  
23 action for recovery against insurers like Standard.

24 7. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
25 represent, are barred by the provisions, terms, exclusions, definitions, limitations, and conditions of the  
26 insurance policies at issue.

27 8. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
28 represent, are barred because Standard has fully and/or substantially performed all contractual, statutory,

1 and other duties that may have been owed to Plaintiffs and the members of the putative class.

2 9. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
3 represent, are barred by the failure to satisfy necessary conditions precedent.

4 10. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
5 represent, are barred because they are based on alleged breach of obligations not found in the insurance  
6 policies at issue, which are fully integrated agreements.

7 11. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
8 represent, are barred or limited because Standard complied with all applicable laws, statutes, and  
9 regulations at all pertinent times.

10 12. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
11 represent, are barred or limited because Standard acted reasonably, appropriately, and in good faith at all  
12 pertinent times.

13 13. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
14 represent, are barred because Standard did not engage in any unfair, unlawful, fraudulent, or wrongful  
15 conduct.

16 14. Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
17 represent, are barred because Standard did not willfully or intentionally engage in any unfair, unlawful,  
18 fraudulent, or wrongful conduct.

19 15. The claims for relief asserted in the Amended Complaint are barred, in whole or in part,  
20 by the applicable statutes of limitations, laches, and/or other time bars.

21 16. The acts and omissions of Standard, if any, were excused or justified by the information  
22 and facts available to Standard at the time such acts and omissions, if any, occurred.

23 17. Plaintiff, and some or all of the other persons Plaintiffs purport to represent, have sustained  
24 no injury in fact or damages caused by Standard or the conduct alleged in the Amended Complaint.

25 18. Plaintiffs, and some or all of the other persons Plaintiffs purport to represent, have failed  
26 and neglected to use reasonable care to protect themselves and minimize the alleged loss and damage  
27 complained of, if there was any.

28 19. If Plaintiffs, and all or some of those Plaintiffs purport to represent, have suffered any

1 injury or harm—which Standard expressly denies—recovery is barred by the failure of Plaintiff, and  
2 some or all of those Plaintiffs purport to represent, to mitigate, reduce, or otherwise avoid damages or  
3 injuries.

4 20. Plaintiffs’ claims, and those of some or all of the other persons Plaintiffs purport to  
5 represent, are barred, in whole or in part, because no act or omission by Standard, or by any person or  
6 entity for which Standard was responsible, was the proximate cause of any injury or harm alleged.

7 21. Plaintiffs’ claims, and those of some or all of the other persons Plaintiffs purport to  
8 represent, are barred due to the acts or omissions of third parties who are unrelated to Standard.

9 22. To the extent California Insurance Code §§ 10113.71 and 10113.72 require benefits to be  
10 paid even though any policies had lapsed, Standard is entitled to an offset for any premiums that would  
11 have been due and owing between the date of the last paid premium and the death of the insured(s).

12 23. To the extent California Insurance Code §§ 10113.71 and 10113.72 require reinstatement  
13 even though any policies had lapsed, Standard is entitled to receive any past premiums that would be due  
14 and owing since the date of the last paid premium.

15 24. Plaintiff, and some or all of the other persons Plaintiffs purport to represent, fail to state a  
16 claim for punitive, exemplary, and/or treble damages against Standard.

17 25. Any demand for punitive or exemplary damages in the Amended Complaint is barred by  
18 the Due Process Clauses of the United States Constitution and/or the California Constitution. U.S. Const.,  
19 amend. XIV; Cal. Const. Art. I, § 7.

20 26. Any demand for punitive or exemplary damages in the Amended Complaint is barred by  
21 the Equal Protection Clauses of the United States Constitution and/or the California Constitution. U.S.  
22 Const., amend. XIV; Cal. Const. Art. I, § 7.

23 27. Any demand for punitive or exemplary damages in the Amended Complaint is barred by  
24 the Contracts Clauses of the United States Constitution and/or the California Constitution. U.S. Const.,  
25 Art. I, § 10, cl. 1; Cal. Const. Art. I, § 9.

26 28. Any demand for punitive or exemplary damages in the Amended Complaint is barred by  
27 the Excessive Fines provisions of the United States Constitution and/or the California Constitution. U.S.  
28 Const., amend. VIII; Cal. Const. Art. I, § 17.

1        29.        Any demand for punitive or exemplary damages in the Amended Complaint does not meet  
2 the tests for set forth by the United States Supreme Court in *BMW of North America, Inc. v. Gore*, 517  
3 U.S. 559 (1996), *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003), *Philip*  
4 *Morris USA v. Williams*, 549 U.S. 346 (2007), and other cases, and therefore fails to state a cause of  
5 action supporting any punitive or exemplary damages claimed.

6        30.        Plaintiffs, and some or all of the other persons Plaintiffs purport to represent, have  
7 expressly and/or by conduct waived the right to complain of the conduct alleged in the Amended  
8 Complaint and are estopped from pursuing these claims.

9        31.        Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
10 represent, are barred by the doctrine of unjust enrichment.

11       32.        Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
12 represent, are barred by the doctrine of unclean hands in that the actions of Plaintiff, and some or all of  
13 the other persons Plaintiffs purport to represent, have caused some or all of the alleged harm incurred, if  
14 any.

15       33.        The second cause of action in the Amended Complaint for breach of the implied covenant  
16 of good faith and fair dealing is barred by the genuine dispute doctrine.

17       34.        This action is not proper for class certification under Federal Rule of Civil Procedure 23  
18 because Plaintiffs cannot satisfy the requirements set forth in Federal Rule of Civil Procedure 23.

19       35.        The Amended Class Action Complaint fails to adequately define any class of persons who  
20 could properly maintain this action as a class action.

21       36.        This action is not proper for class certification under Federal Rule of Civil Procedure 23  
22 because Plaintiffs' purported claims are not typical of the claims of the putative class or sub-class.

23       37.        This action is not proper for class certification under Federal Rule of Civil Procedure 23  
24 because the putative class defined is not ascertainable.

25       38.        This action is not proper for class certification under Federal Rule of Civil Procedure 23  
26 because the putative sub-class defined is not ascertainable.

27       39.        This action is not proper for class certification under Federal Rule of Civil Procedure 23  
28 because there is a lack of commonality of questions of law.

1       40.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
2 because there is a lack of commonality of questions of fact.

3       41.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
4 because questions of law and fact common to the purported class (and/or sub-class) do not predominate  
5 over the questions affecting the individual members of the purported class (and/or sub-class).

6       42.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
7 because individual questions of fact and law predominate over common questions.

8       43.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
9 because Plaintiffs and/or Plaintiffs' counsel are inadequate representatives of the putative class.

10       44.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
11 because there are likely to be difficulties in the management of the proposed class action.

12       45.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
13 because class-action treatment is inferior to individual resolution of claims.

14       46.       This action is not proper for class certification under Federal Rule of Civil Procedure 23  
15 because of conflicts of interest between Plaintiffs and the members of the putative class and/or between  
16 and among members of the putative class.

17       47.       Plaintiffs' claims are barred, in whole or in part, because the Policy terminated as a result  
18 of Plaintiffs' admitted failure and inability to repay the required portion(s) of certain loans taken against  
19 the Policy.

20       48.       Plaintiffs' claims, and those of some or all of the other persons Plaintiffs purport to  
21 represent, are barred, in whole or in part, by the following doctrines: res judicata, collateral estoppel,  
22 laches, assumption of risk, contributory negligence, duress, failure of consideration, contribution, set-  
23 off, fraud, illegality, injury by fellow servant, license, joint and several liability, payment, release,  
24 standing, real party in interest, accord and satisfaction, good faith, failure to cooperate, failure to read,  
25 and/or release.

26       49.       Standard reserves the right to plead any additional affirmative defenses that become  
27 available or known as this action proceeds, including, but not limited to, those defenses that become  
28 known to Standard through discovery. Standard reserves the right to amend its Answer to add such



1 additional defenses or to delete any affirmative defenses that it determines are not applicable, as well as  
2 any counterclaims and third-party claims, based on information revealed during the discovery process.

3 WHEREFORE, Defendant Standard Insurance Company prays for relief as follows:

- 4 1. That the Court deny Plaintiffs' request for certification of any class action pursuant to  
5 Rule 23 of the Federal Rules of Civil Procedure or any other applicable Rules of Procedure;
- 6 2. That the Court deny any and all relief requested by Plaintiff;
- 7 3. That Plaintiffs takes nothing by reason of the Amended Class Action Complaint;
- 8 4. That the Court enter judgment in favor of Defendant Standard Insurance Company and  
9 against Plaintiffs;
- 10 5. That the Court dismiss the Amended Class Action Complaint in its entirety with prejudice;
- 11 6. For costs of suit incurred herein, including attorneys' fees; and
- 12 7. For such other and further relief as the Court may deem just and proper.

13  
14 DATED: October 20, 2022

MAYNARD, COOPER & GALE, LLP,

15  
16 By: /s/ Cindy M. Rucker

CINDY M. RUCKER

17 Attorneys for Defendant STANDARD  
18 INSURANCE COMPANY  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
COUNTY OF SAN FRANCISCO )

I am employed in the County of San Francisco, State of California. I am over the age of 21 and am not a party to the within action. My business address is Maynard, Cooper & Gale, LLP, Two Embarcadero Center, Suite 1450, San Francisco, California 94111. On the date indicated below, I served the foregoing document described as:

**DEFENDANT STANDARD INSURANCE COMPANY'S ANSWER TO AMENDED CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

on the interested parties in this action by placing: [ ] the original document - OR- [X] a true and correct copy thereof enclosed in sealed envelopes addressed as follows:


Christopher Pitoun (SBN 290235)  
christopherp@hbsslaw.com  
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**[x] BY CM/ECF ELECTRONIC SERVICE:** The following are registered CM/ECF users with the Court and have consented to service through the Court's automatic transmission of a notice of electronic filing.

I declare that I am employed in the office of a member who has been admitted to the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 20, 2022, in San Francisco, California.

  
Sam Roberson III