

The Honorable Ronald B. Leighton

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM T. WHITMAN, individually and  
on behalf of all others similarly situated,

Plaintiffs,

vs.

STATE FARM LIFE INSURANCE  
COMPANY, an Illinois corporation,

Defendant.

NO. 3:19-cv-06025-RBL

STATE FARM LIFE INSURANCE  
COMPANY’S ANSWER TO SECOND  
AMENDED COMPLAINT

**DEFENDANT STATE FARM LIFE INSURANCE COMPANY’S ANSWER TO SECOND  
AMENDED CLASS ACTION COMPLAINT**

Defendant State Farm Life Insurance Company (hereinafter “State Farm”) hereby responds and answers the allegations of Plaintiff’s putative Class Action Second Amended Complaint. Except as expressly admitted in this Answer below, State Farm denies all the Plaintiff’s allegations.

**INTRODUCTION**

1. This is a class action to recover amounts that Defendant charged and collected from Plaintiff and life insurance policy owners in excess of amounts authorized by the express terms of their policies. Plaintiff’s claims and those of the proposed class members are

STATE FARM LIFE INSURANCE  
COMPANY’S ANSWER TO SECOND  
AMENDED COMPLAINT – NO. 3:19-cv-  
06025-RBL

Betts  
Patterson  
Mines  
One Convention Place  
Suite 1400  
701 Pike Street  
Seattle, Washington 98101-3927  
(206) 292-9988

1 exclusively supported by the explicit provisions of their life insurance policies and are not  
2 derived from any alleged conversations had, or documents reviewed, at the time of sale.

3 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
4 **meets the requirements for certification of a class under Fed. R. Civ. P. 23.**

5 2. The terms of Plaintiff's life insurance policy provide for an "Account Value"  
6 consisting of monies held in trust by Defendant for Plaintiff. Over the course of several years,  
7 Defendant deducted monies from Plaintiff's Account Value in breach of his policy's terms.  
8

9 **ANSWER: State Farm denies these allegations.**

10 3. Defendant is contractually bound to deduct only those charges explicitly  
11 identified and authorized by the terms of its life insurance policies, which are fully integrated  
12 agreements. Defendant deducts charges from the Account Values of Plaintiff and the proposed  
13 class members in excess of amounts specifically permitted by their life insurance policies.  
14

15 **ANSWER: State Farm denies these allegations.**

16 4. Defendant has caused material harm to Plaintiff and the proposed class members  
17 by improperly draining monies they accumulated in the Account Values of their policies. Every  
18 unauthorized dollar taken from policy owners is one less dollar on which policy owners earn  
19 interest and one less dollar that can be: applied to pay future premiums; used to increase the  
20 death benefit; used as collateral for policy loans; or withdrawn as cash.  
21

22 **ANSWER: State Farm denies these allegations.**

23 5. Plaintiff brings this case as a class action under Federal Rule of Civil Procedure  
24 23, individually and as a representative of the following (the "Class): All persons who own or  
25

1 owned a universal life policy issued by State Farm on its policy form 94030 in the State of  
2 Washington.

3 **ANSWER: State Farm admits that Plaintiff purports to bring this case as a class**  
4 **action under Fed. R. Civ. P. 23, but denies that the case meets the requirements for**  
5 **certification of a class and otherwise denies these allegations.**

6  
7 **PARTIES**

8 6. Plaintiff William T. Whitman is an individual and resident of the State of New  
9 Hampshire.

10 **ANSWER: State Farm admits these allegations.**

11 7. Defendant State Farm Life Insurance Company is a life insurance company  
12 organized and existing under the laws of the State of Illinois, and maintains its principal place of  
13 business in Bloomington, Illinois.

14 **ANSWER: State Farm admits these allegations.**

15  
16 **JURISDICTION AND VENUE**

17 8. This Court has jurisdiction over all causes of action asserted herein pursuant to 28  
18 U.S.C. § 1332(d) because this is a class action with diversity of citizenship between parties and  
19 the matter in controversy exceeds \$5,000,000, exclusive of interest and costs, and the proposed  
20 Class contains more than 100 members. Plaintiff's claims are meaningfully connected to  
21 Washington because he purchased his policy from Defendant in Tacoma, Washington. Plaintiff  
22 continuously resided and worked in Washington while making premium payments to Defendant  
23 from January 2001 through September 2010. The Plaintiff's policy bears a policy form number  
24 associated with the state of Washington and the underlying policy form was approved for sale in  
25

STATE FARM LIFE INSURANCE  
COMPANY'S ANSWER TO SECOND  
AMENDED COMPLAINT – NO. 3:19-cv-  
06025-RBL

Betts  
Patterson  
Mines  
One Convention Place  
Suite 1400  
701 Pike Street  
Seattle, Washington 98101-3927  
(206) 292-9988

1 the state of Washington by its Office of the Insurance Commissioner. Defendant purposefully  
2 directed its activities toward Washington and Washington residents and availed itself of the  
3 privilege of conducting business in Washington by: registering with the Office of the Insurance  
4 Commissioner of the state of Washington in 1930; maintaining the state of Washington's  
5 authorization to transact insurance business in the state from the time of its registration through  
6 the present; and soliciting Washington residents, including Plaintiff, to purchase insurance  
7 policies.  
8

9 **ANSWER: State Farm denies that this action is appropriate for certification as a**  
10 **class action, denies that the amount in controversy for any individual claim exceeds**  
11 **\$5,000,000, but admits that it registered itself with the Washington Office of the Insurance**  
12 **Commissioner in 1930 and has maintained this registration through present day; admits**  
13 **that Plaintiff purchased the policy at issue in Tacoma, Washington as a Washington**  
14 **resident, and does not contest this Court's jurisdiction at this time, as it pertains to the**  
15 **named Plaintiff. Except as expressly admitted, State Farm denies all remaining allegations**  
16 **contained in Paragraph 8 of Plaintiff's Amended Complaint.**  
17

18 9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Defendant is a  
19 resident of this District and a substantial portion of the events giving rise to Plaintiff's causes of  
20 action occurred in this District in that, in 2001, Plaintiff was a resident of this District, visited  
21 Defendant's agent in this District, signed the application for life insurance in this District, made  
22 the initial premium payments from this District, and established the contract with Defendant  
23 while he was a resident in this District.  
24  
25



1           **ANSWER: State Farm admits these allegations.**

2           14.     “The [P]olicy is the entire contract,” and it consists of “the Basic Plan, any  
3 amendments, endorsements, and riders, and a copy of the application.” Ex. A at p. 11.

4           **ANSWER: State Farm admits the quoted language is an excerpt of a provision of**  
5 **the Policy issued to Plaintiff titled “The Contract,” under a section headed “General**  
6 **Provisions.” Except as expressly admitted, State Farm denies the allegations contained in**  
7 **Paragraph 14 of Plaintiff’s Amended Complaint because they attempt to excerpt one**  
8 **portion of the Policy for consideration outside of the context of the Policy as a whole.**

9           15.     The terms of the Policy are not subject to individual negotiation and are  
10 materially the same for all policy owners. They cannot be altered by an agent’s representations at  
11 the time of sale.  
12

13           **ANSWER: State Farm denies these allegations.**

14           16.     The Policy provides that, “[o]nly an officer has the right to change this policy. No  
15 agent has the authority to change the policy or to waive any of its terms. All endorsements,  
16 amendments, and riders must be signed by an officer to be valid.” Ex. A at p. 11.  
17

18           **ANSWER: State Farm admits the quoted language is an excerpt of a provision of**  
19 **the Policy issued to Plaintiff titled “The Contract,” under a section headed “General**  
20 **Provisions.” Except as expressly admitted, State Farm denies the allegations contained in**  
21 **Paragraph 16 of Plaintiff’s Amended Complaint because they attempt to excerpt one**  
22 **portion of the Policy for consideration outside of the context of the Policy as a whole.**

1 17. Defendant administered and currently administers all aspects of the Policy, and all  
2 policies that fall within the Class definition set forth above (together, the “Policies”), including  
3 collecting premiums, and setting, assessing and deducting policy charges.

4 **ANSWER: State Farm admits that it collected premiums and set, assessed, and**  
5 **deducted Policy charges according to the terms of the Policy and that the premiums and**  
6 **charges are shown to Plaintiff on his annual notices. Except as expressly admitted, State**  
7 **Farm denies the allegations in Paragraph 17 of Plaintiff’s Amended Complaint and**  
8 **specifically denies that this case meets the requirements for class certification under Rule**  
9 **23 of the Federal Rules of Civil Procedure.**

10  
11 18. In addition to a death benefit, the Policies provide policy owners a savings, or  
12 interest-bearing, component that is identified in the Policies as the “Account Value.”

13 **ANSWER: State Farm admits that the Policy contains an “Account Value” that is**  
14 **defined in the Policy and admits that the Policy contains a death benefit. State Farm denies**  
15 **any allegation inconsistent with the Policy terms. Except as expressly admitted, State Farm**  
16 **denies the allegations contained in Paragraph 18 of Plaintiff’s Amended Complaint and**  
17 **specifically denies that this case meets the requirements for class certification under Rule**  
18 **23 of the Federal Rules of Civil Procedure.**

19  
20 19. Generally speaking, premium dollars are deposited into the Account Value, from  
21 which Defendant deducts those monthly charges authorized by the terms of the Policies. The  
22 Account Value earns interest as provided by the Policies.

23  
24 **ANSWER: State Farm admits the Policy establishes the definition of “Account**  
25 **Value” and the authorized deductions in the Policy. State Farm further admits that the**

1 **Account Value can earn interest as authorized by the Policy. State Farm denies any**  
2 **allegation inconsistent with the Policy terms. Except as expressly admitted, State Farm**  
3 **denies the allegations contained in Paragraph 19 of Plaintiff's Amended Complaint and**  
4 **specifically denies that this case meets the requirements for class certification under Rule**  
5 **23 of the Federal Rules of Civil Procedure.**

6  
7 20. The money that makes up the Account Value is the property of the policy owner  
8 and is held in trust by Defendant.

9 **ANSWER: State Farm admits that the Account Value of the Policy is administered**  
10 **according to the terms of the contract. Except as expressly admitted, State Farm denies the**  
11 **allegations contained in Paragraph 20 of Plaintiff's Amended Complaint and specifically**  
12 **denies that this case meets the requirements for class certification under Rule 23 of the**  
13 **Federal Rules of Civil Procedure.**

14  
15 21. Under the express terms of the Policies, a "premium expense charge" is taken  
16 from each premium payment in the amount of 5% of each premium paid. Ex. A at p. 3.

17 **ANSWER: State Farm admits that the Policy authorizes a premium expense charge**  
18 **as described in this paragraph. State Farm denies any allegation inconsistent with the**  
19 **Policy terms and specifically denies that this case meets the requirements for class**  
20 **certification under Rule 23 of the Federal Rules of Civil Procedure.**

21  
22 22. The Account Value is equal to 95% of the initial premium less the monthly  
23 deduction for the first policy month, and thereafter:

24 The account value on any deduction date after the policy date is the account value  
25 on the prior deduction date:

(1) plus 95% of any premiums received since the prior deduction date,



- (2) less the deduction for the cost of insurance for any increase in Basic Amount and the monthly charges for any riders that became effective since the prior deduction date,
- (3) less any withdrawals since the prior deduction date,
- (4) less the current monthly deduction,
- (5) plus any dividend paid and added to the account value on the current deduction date, and
- (6) plus any interest accrued since the prior deduction date.

The account value on any other date is the account value on the prior deduction date:

- (1) plus 95% of any premiums received since the prior deduction date,
- (2) less the deduction for the cost of insurance for any increase in Basic Amount and the monthly charges for any riders that became effective since the prior deduction date,
- (3) less any withdrawals since the prior deduction date, and
- (4) plus any interest accrued since the prior deduction date.

Ex. A at p. 9.

**ANSWER: State Farm admits that the Policy defines Account Value as described in this paragraph. State Farm denies any allegation inconsistent with the Policy terms. Except as expressly admitted, State Farm denies the allegations contained in Paragraph 22 of Plaintiff's Amended Complaint.**

23. The "Policy Date" is "[t]he effective date of this Policy," and the "Deduction Date" is "[t]he policy date and each monthly anniversary of the policy date." Ex. A at p. 5. Therefore, the Deduction Date under Plaintiff's Policy is the 16<sup>th</sup> of each month. Ex. A. at p. 3.

**ANSWER: State Farm admits that the Policy defines "Policy Date" as "[t]he effective date of this Policy" and defines "Deduction Date" as "[t]he policy date and each monthly anniversary of the policy date." State Farm further admits that the Deduction Date under Plaintiff's Policy is the 16th of each month. State Farm denies any allegation**

1 **inconsistent with the Policy terms. Except as expressly admitted, State Farm denies the**  
2 **allegations contained in Paragraph 23 of Plaintiff’s Amended Complaint**

3 24. Defendant may access and withdraw funds from the Account Value only as  
4 expressly authorized by the Policies.

5 **ANSWER: State Farm admits that the Policy defines how charges may be assessed**  
6 **and deducted from the Account Value. State Farm denies any allegation inconsistent with**  
7 **the Policy terms. Except as expressly admitted, State Farm denies the allegations contained**  
8 **in Paragraph 24 of Plaintiff’s Amended Complaint and specifically denies that this case**  
9 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
10 **Procedure.**

11  
12 25. The Policies expressly define the specific charges that Defendant may assess and  
13 deduct from a given policy owner’s premium payments and the accumulated Account Value.  
14 Defendant may deduct only those charges allowed by the Policies.

15  
16 **ANSWER: State Farm admits that Plaintiff’s Policy defines how charges may be**  
17 **assessed and deducted from the Account Value and premium payments and that all**  
18 **charges and deductions on the Policy are shown to Plaintiff on his annual notices. State**  
19 **Farm denies any allegation inconsistent with the Policy terms. Except as expressly**  
20 **admitted, State Farm denies the allegations contained in Paragraph 25 of Plaintiff’s**  
21 **Amended Complaint and specifically denies that this case meets the requirements for class**  
22 **certification under Rule 23 of the Federal Rules of Civil Procedure.**

23  
24 26. The Policies authorize Defendant to take a “Monthly Deduction” from the policy  
25 owner’s Account Value each month. Ex. A at p. 9.

1           **ANSWER: State Farm admits that Plaintiff’s Policy authorizes Defendant to take a**  
2 **“Monthly Deduction” from Plaintiff’s Account Value each month and the deduction is**  
3 **shown to Plaintiff on his annual notices. State Farm denies the remaining allegations in**  
4 **Paragraph 26 of Plaintiff’s Amended Complaint and specifically denies that this case meets**  
5 **the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
6 **Procedure.**

7  
8           27.     The Policies expressly define the Monthly Deduction as follows:

9           **Monthly Deduction.** This deduction is made each month, whether or not  
10 premiums are paid, as long as the cash surrender value is enough to cover that  
11 monthly deduction. Each deduction includes:

- 12           (1)     the cost of insurance,
- (2)     the monthly charges for any riders, and
- (3)     the monthly expense charge.

13 Ex. A at p. 9.

14           **ANSWER: State Farm admits that the Policy defines how charges may be assessed**  
15 **and deducted from the Account Value and premium payments and the deductions are**  
16 **shown to Plaintiff on his annual notices. State Farm denies any allegation inconsistent with**  
17 **the Policy terms. Except as expressly admitted, State Farm denies the allegations contained**  
18 **in Paragraph 27 of Plaintiff’s Amended Complaint and specifically denies that this case**  
19 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
20 **Procedure.**

21  
22           28.     The Policies state that the monthly expense charge (“Expense Charge”) is \$5.00.

23 Ex. A at p. 3.

1           **ANSWER: State Farm admits that Plaintiff’s policy has a monthly expense charge**  
2 **of \$5.00. See Ex. 1. State Farm denies the remaining allegations in Paragraph 28 of**  
3 **Plaintiff’s Amended Complaint and specifically denies that this case meets the**  
4 **requirements for class certification under Rule 23 of the Federal Rules of Civil Procedure.**

5           29.     The Policies also expressly define how the charge for the monthly “Cost of  
6 Insurance” (“Cost of Insurance Charge”) is determined and calculated:  
7

8           **Cost of Insurance.** This cost is calculated each month. The cost is determined separately  
9 for the Initial Basic Amount and each increase in Basic Amount.

10           The cost of insurance is the monthly cost of insurance times the difference between (1)  
11 and (2), where:

- 12           (1) is the amount of insurance on the deduction date at the start of the month divided  
13           by 1.0032737, and
- 14           (2) is the account value on the deduction date at the start of the month before the cost  
15           of insurance and the monthly charge for any waiver of monthly deduction benefit  
16           rider are deducted.

17           Until the account value exceeds the Initial Basic Amount, the account value is part of the  
18 Initial Basic Amount. Once the account value exceeds that amount, if there have been any  
19 increases in Basic Amount, the excess will be part of the increases in order in which the  
20 increases occurred.

21 Ex. A at p. 10.

22           **ANSWER: State Farm admits that the Policy contains the quoted terms. State Farm**  
23 **denies any allegation inconsistent with the Policy terms. Except as expressly admitted, State**  
24 **Farm denies the allegations contained in Paragraph 29 of Plaintiff’s Amended Complaint**  
25 **and specifically denies that this case meets the requirements for class certification under**  
**Rule 23 of the Federal Rules of Civil Procedure.**

1 30. The Policies specify the factors Defendant may use to determine “Monthly Cost  
2 of Insurance Rates,” which are used to calculate the Cost of Insurance Charges that are deducted  
3 from the Account Value each month:

4 **Monthly Cost of Insurance Rates.** These rates for each policy year are based  
5 on the Insured’s age on the policy anniversary, sex, and applicable rate class. A  
6 rate class will be determined for the Initial Basic Amount and for each  
7 increase. The rates shown on page 4 are the maximum monthly cost of  
8 insurance rates for the Initial Basic Amount. Maximum monthly cost of  
9 insurance rates will be provided for each increase in the Basic Amount. We  
10 can charge rates lower than those shown. Such rates can be adjusted for  
11 projected changes in mortality but cannot exceed the maximum monthly cost  
12 of insurance rates. Such adjustments cannot be made more than once a  
13 calendar year.

14 Ex. A at p. 10.

15 **ANSWER: State Farm admits that the Policy contains the quoted terms. State Farm**  
16 **denies any allegation inconsistent with the Policy terms. Except as expressly admitted, State**  
17 **Farm denies the allegations contained in Paragraph 30 of the Plaintiff’s Amended**  
18 **Complaint and specifically denies that this case meets the requirements for class**  
19 **certification under Rule 23 of the Federal Rules of Civil Procedure.**

20 31. Defendant admits that a rate “based on” factors explicitly identified in the Policies  
21 must be determined using only those factors identified and no other unidentified factors. *See*  
22 *Alleman v. State Farm Life Ins. Co.*, 334 F. Appx. 470, 472 (3rd Cir. 2009) (affirming summary  
23 judgment in State Farm’s favor and rejecting plaintiff insured’s argument that a provision in the  
24 life insurance policy stating a charge would be “*based on the Insured’s age last birthday and*  
25 *sex*” should be read to include other undisclosed factors, because “[b]y the plain language of

1 these policies, it is clear that the insureds' age and sex are the only mortality factors relevant to  
2 the rate ....") (emphasis added).

3 **ANSWER: Paragraph 31 of Plaintiff's Amended Complaint contains legal**  
4 **conclusions that do not require a response. To the extent a response is required, State Farm**  
5 **denies the allegations contained in Paragraph 31 of Plaintiff's Amended Complaint.**

6  
7 32. Thus, under the explicit terms of the Policies, Defendant is authorized to  
8 determine Monthly Cost of Insurance Rates for each policy year using only the Insured's age,  
9 sex, applicable rate class, and projected changes in mortality. Ex. A. at p. 10.

10 **ANSWER: State Farm admits that the Policy contains a paragraph titled "Monthly**  
11 **Cost of Insurance Rates" and the following sentence is contained within the paragraph:**  
12 **"These rates for each policy year are based on the Insured's age on the policy anniversary,**  
13 **sex, and applicable rate class." Except as expressly admitted, State Farm denies the**  
14 **allegations contained in Paragraph 32 of Plaintiff's Amended Complaint and specifically**  
15 **denies that this case meets the requirements for class certification under Rule 23 of the**  
16 **Federal Rules of Civil Procedure.**

17  
18 33. Policy year, age, sex, and rate class are factors commonly used within the life  
19 insurance industry to determine the mortality expectations of an insured or group or class of  
20 insureds.

21  
22 **ANSWER: State Farm admits that age and sex are factors that relate to mortality**  
23 **expectations. Except as expressly admitted, State Farm denies the allegations contained in**  
24 **Paragraph 33 of Plaintiff's Amended Complaint.**

1 34. By specifically identifying Cost of Insurance Rates as based on policy year, age,  
2 sex, and rate class, Defendant agrees that mortality expectations determine the Monthly Cost of  
3 Insurance Rates under the Policies, as confirmed by the additional provision that “[s]uch rates  
4 can be adjusted for projected changes in mortality.” Ex. A at p. 10.

5 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
6 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
7 **Procedure.**

8  
9 35. Given the language of the Monthly Cost of Insurance Rates provision in the  
10 Policies, and its context in the Policies as a whole, no reasonable layperson would expect that the  
11 Policies permitted Defendant to use any factor it wanted to determine Cost of Insurance Rates for  
12 the Policies. A reasonable layperson would instead read policy year, age, sex, and rate class, in  
13 combination with the contractual limitation that rates can only be adjusted for “projected changes  
14 in mortality,” to mean that only mortality expectations are used to determine Monthly Cost of  
15 Insurance Rates for the Policies.

16  
17 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
18 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
19 **Procedure.**

20  
21 36. The Policies authorize Defendant to make periodic deductions from policy  
22 owners’ Account Values including, specifically, Cost of Insurance Charges that are calculated  
23 using rates that Defendant must determine based on specified factors, and that can be adjusted  
24 for projected changes in mortality.

1           **ANSWER: State Farm admits that it is authorized to make periodic deductions**  
2 **from the Account Value as permitted by the Policy. Except as expressly admitted, State**  
3 **Farm denies the allegations contained in Paragraph 36 of Plaintiff’s Amended Complaint**  
4 **and specifically denies that this case meets the requirements for class certification under**  
5 **Rule 23 of the Federal Rules of Civil Procedure.**

6  
7           37.     The Policies also disclose a premium expense charge set at a fixed percentage of  
8 five percent of each premium payment made. The Policies further disclose a separate, monthly  
9 expense charge within the Monthly Deduction that Defendant set at a fixed amount of \$5.00 per  
10 month.

11           **ANSWER: State Farm admits that Plaintiff’s Policy has a premium expense charge**  
12 **of 5 percent of each premium payment and a monthly expense charge of \$5.00 but denies**  
13 **the remaining allegations in Paragraph 37 of Plaintiff’s Amended Complaint. State Farm**  
14 **specifically denies that this case meets the requirements for class certification under Rule**  
15 **23 of the Federal Rules of Civil Procedure.**

16  
17           38.     Although the Policies authorize Defendant to use only certain, specified factors in  
18 determining Monthly Cost of Insurance Rates, Defendant uses other factors, not authorized by  
19 the Policies, when determining those rates, including, without limitation:

- 20           a. Expense experience;
- 21           b. Persistency;
- 22           c. Taxes;
- 23           d. Profit;
- 24           e. Investment Earnings;
- 25



1 f. Capital and reserve requirements, and

2 g. Other unspecified factors.

3 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
4 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
5 **Procedure.**

6  
7 39. By loading these factors into Monthly Cost of Insurance Rates, Defendant  
8 knowingly causes those rates to be higher than what is explicitly authorized by the Policies and,  
9 as a result, withdraws Cost of Insurance Charges from policy owner Account Values in amounts  
10 greater than what is permitted by the Policies.

11 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
12 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
13 **Procedure.**

14  
15 40. By loading unauthorized factors in Monthly Cost of Insurance Rates, Defendant  
16 repeatedly and continuously breaches the Policies and impermissibly inflates those rates.

17 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
18 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
19 **Procedure.**

20  
21 41. As a direct and proximate result of Defendant’s breaches, Plaintiff and the Class  
22 have been damaged, and those damages are continuing in nature in that Defendant deducted and  
23 will continue to deduct unauthorized Cost of Insurance Charges from policy owners’ Account  
24 Values.

1           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
2 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
3 **Procedure.**

4           42. By loading expense factors in Monthly Cost of Insurance Rates, Defendant  
5 repeatedly and continuously breaches the Policies by impermissibly deducting from the Account  
6 Values of Plaintiff and the Class amounts in excess of the fixed expense charges expressly  
7 authorized by the Policies.  
8

9           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
10 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
11 **Procedure.**

12           43. As a direct and proximate result of Defendant’s breaches, Plaintiff and the Class  
13 have been damaged and those damages are continuing in nature in that Defendant has deducted  
14 and will continue to deduct expenses, including without limitation, maintenance, administrative,  
15 and other expenses, from the Account Values of Plaintiff and the Class in amounts not  
16 authorized by the Policies.  
17

18           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
19 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
20 **Procedure.**

21           44. The nature of Defendant’s conduct is such that Plaintiff and each member of the  
22 Class would be unaware that Defendant was engaging in wrongdoing by taking inflated charges  
23 and improper amounts from their Account Values. Defendant possesses the actuarial information  
24 and equations underlying the computation of rates and charges for the Policies. The Monthly  
25

1 Cost of Insurance Rates used to calculate the monthly Cost of Insurance Charges are not  
2 disclosed to policy owners, nor are the components or factors that comprise those rates. Even if  
3 they were, Plaintiff and the Class would lack the knowledge, experience, and training to  
4 reasonably ascertain how Defendant calculated the rates and charges.

5 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
6 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
7 **Procedure.**

9 45. Defendant was aware that Plaintiff and each member of the Class did not know  
10 about the improper deductions because of Defendant's superior knowledge of the  
11 aforementioned computations. Defendant sent Plaintiff annual statements that identified each  
12 month's Cost of Insurance Charge while affirmatively concealing the factors Defendant used to  
13 calculate the Cost of Insurance Rates. Despite reasonable diligence on his part, Plaintiff was kept  
14 ignorant by Defendant of the factual bases for these claims for relief. Defendant's withholding of  
15 material facts concealed these claims and tolled all applicable statutes of limitation.

17 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
18 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
19 **Procedure.**

20 46. Plaintiff reasonably relied to his detriment on Defendant's fraudulent concealment  
21 of its misconduct and material omission of the factors actually used to calculate the deductions  
22 from his Account Value. As a result of such concealment, Plaintiff did not believe that it was  
23 necessary to file a lawsuit. Plaintiff did not discover, and exercising reasonable diligence could  
24 not have discovered, the facts establishing Defendant's continuing breaches or the harm caused  
25

1 thereby. Plaintiff did not learn of Defendant’s continuing breaches of the Policy supporting his  
2 claim until approximately May 2019, when he engaged counsel.

3 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
4 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
5 **Procedure.**

6  
7 47. Defendant is estopped from asserting a statute of limitations defense. Defendant’s  
8 conduct in failing to disclose the true factors it used—and continues to use— to calculate the  
9 Cost of Insurance Rates misled Plaintiff and prevented him from learning the factual bases for  
10 these claims for relief. Plaintiff proceeded diligently to file suit once he discovered the need to  
11 proceed. Defendant’s continuing breach of the Policy is ongoing.

12 **ANSWER: State Farm denies these allegations.**

13 **CLASS ALLEGATIONS**

14  
15 48. Plaintiff brings this lawsuit under Fed. R. Civ. P. 23, individually and as a  
16 representative of the following Class: All persons who own or owned a universal life policy  
17 issued by State Farm on its policy form 94030 in the State of Washington.

18 **ANSWER: State Farm admits that Plaintiff purports to bring this case as a class**  
19 **action under Fed. R. Civ. P. 23 but denies that this case meets the requirements for**  
20 **certification of a class. Except as expressly admitted, State Farm denies the allegations**  
21 **contained in Paragraph 48 of Plaintiff’s Amended Complaint.**

22  
23 49. Excluded from the Class is the Defendant, any entity in which the Defendant has  
24 a controlling interest, any of the officers, directors, or employees of the Defendant, the legal  
25 representatives, heirs, successors, and assigns of the Defendant, anyone employed with

1 Plaintiff's counsel's firms, any Judge to whom this case is assigned, and the Judge's immediate  
2 family. Excluded from the Class is any policy that explicitly discloses all of the factors  
3 Defendant uses to calculate its rates and charges.

4 **ANSWER: State Farm admits that Plaintiff purports to bring this case as a class**  
5 **action under Fed. R. Civ. P. 23 but denies that this case meets the requirements for**  
6 **certification of a class. Except as expressly admitted, State Farm denies the allegations**  
7 **contained in Paragraph 49 of Plaintiff's Amended Complaint.**

9 50. Plaintiff's claims satisfy the numerosity, commonality, typicality, adequacy, and  
10 superiority requirements of Federal Rule of Civil Procedure 23(a), and the requirements for class  
11 treatment under Rules 23(b)(1), (b)(2), and (b)(3).

12 **ANSWER: State Farm denies these allegations.**

13 51. The numerosity requirement is satisfied because there are thousands of Class  
14 members who are geographically dispersed, making joinder impracticable, and the disposition of  
15 Class member claims in a single action will provide a substantial benefit to all parties and to the  
16 Court.

17 **ANSWER: State Farm denies these allegations.**

18 52. Class members are ascertainable from information and records in Defendant's  
19 possession, custody, or control. Notice of this action can therefore be readily provided to the  
20 Class, via first class mail or other appropriate means, using information contained in Defendant's  
21 records.

22 **ANSWER: State Farm denies these allegations.**

1 53. Plaintiff’s claims are typical of the claims of the Class, because the express terms  
2 of the Policies purchased from Defendant by Plaintiff and proposed Class members contain  
3 identical limitations on the amounts Defendant can charge under the Policies.

4 **ANSWER: State Farm denies these allegations.**

5 54. Plaintiff will fairly and adequately represent the Class because he is a member of  
6 the Class and his interests are aligned with, and do not conflict with, the interests of those he  
7 seeks to represent. The interests of the Class members will be fairly and adequately protected by  
8 Plaintiff and his counsel, who have extensive experience prosecuting complex class litigation.

9 **ANSWER: State Farm denies these allegations.**

10 55. There are questions of fact and law common to the Class that predominate over  
11 any questions affecting only individual members, and a class action is superior to other available  
12 methods for the fair and efficient adjudication of the controversy. The questions of law and fact  
13 common to the Class arising from Defendant’s actions include, without limitation, the following:  
14

- 15 a. Whether Defendant is permitted by the Policies to determine its Monthly Cost of
- 16 Insurance Rates using factors other than those specified in the Policies;
- 17
- 18 b. Whether Defendant added, included, or relied on factors not specified in the
- 19 Policies when determining the Monthly Cost of Insurance Rates used to calculate
- 20 Cost of Insurance Charges or deductions for the Policies;
- 21
- 22 c. Whether Defendant added, included, or relied on factors unrelated to its mortality
- 23 expectations in determining Monthly Cost of Insurance Rates that the Policies
- 24 provide are “based on” specified mortality factors and no other specified factors;
- 25

- d. Whether Defendant is permitted by the Policies to charge expense amounts to policy owners in excess of the amounts disclosed in the Policies;
- e. Whether Defendant charged amounts in excess of those specifically authorized by the Policies;
- f. Whether Defendant breached the terms of the Policies;
- g. Whether Defendant converted Class members' property;
- h. Whether Defendant's conduct was an unfair or deceptive trade practice;
- i. Whether Defendant's misconduct affects the public interest;
- j. Whether the Class were injured and sustained damages as a result of Defendant's wrongful conduct;
- k. Whether the Class is entitled to damages, restitution, and/or other relief as a remedy for Defendant's conduct; and
- l. Whether the Class is entitled to declaratory relief stating the proper construction and/or interpretation of the Policies.

**ANSWER: State Farm denies these allegations.**

56. The questions set forth above predominate over any questions affecting only individual persons, and a class action is superior to all other available means of fair and efficient adjudication of the claims of Plaintiff and Class members. The injury suffered by each individual Class member is relatively small in comparison to the burden and expense of individual prosecution of these claims. Even if Class members could afford to pursue individual litigation, the court system could not. Individualized litigation would risk inconsistent or contradictory judgments while increasing the delay and expense to all parties, and to the judicial system, from

1 the complex legal and factual issues presented here. By contrast, the class action device presents  
2 far fewer management difficulties, and provides the benefits of single adjudication, an economy  
3 of scale, and comprehensive supervision by a single court.

4 **ANSWER: State Farm denies these allegations.**

5 57. Defendant has acted or refused to act on grounds generally applicable to Plaintiff  
6 and Class members, making final injunctive relief and declaratory relief appropriate with respect  
7 to the Class as a whole.

8 **ANSWER: State Farm denies these allegations.**

9  
10 **COUNT I: BREACH OF CONTRACT**  
11 **(Cost of Insurance Charge)**

12 58. The preceding paragraphs are incorporated by reference as if fully alleged herein.

13 **ANSWER: State Farm incorporates and restates by reference its responses to all**  
14 **preceding allegations.**

15 59. Plaintiff and the Class purchased life insurance policies—defined herein as the  
16 Policies—from Defendant.

17 **ANSWER: State Farm admits that Plaintiff purchased the Policy. Except as**  
18 **expressly admitted, State Farm denies the allegations contained in Paragraph 59 of**  
19 **Plaintiff’s Amended Complaint and specifically denies that this case meets the**  
20 **requirements for class certification under Rule 23 of the Federal Rules of Civil Procedure.**

21 60. The Policies are valid and enforceable contracts between the Defendant and  
22 Plaintiff and Class members.  
23  
24  
25



1           **ANSWER: State Farm admits that the Policy is valid and enforceable. Except as**  
2 **expressly admitted, State Farm denies the allegations contained in Paragraph 60 of**  
3 **Plaintiff’s Amended Complaint and specifically denies that this case meets the**  
4 **requirements for class certification under Rule 23 of the Federal Rules of Civil Procedure.**

5           61. Plaintiff and the Class members substantially performed their obligations under  
6 the terms of the Policies.  
7

8           **ANSWER: State Farm admits that Plaintiff has substantially performed his**  
9 **obligations under the Policy. Except as expressly admitted, State Farm denies the**  
10 **allegations contained in Paragraph 61 of Plaintiff’s Amended Complaint and specifically**  
11 **denies that this case meets the requirements for class certification under Rule 23 of the**  
12 **Federal Rules of Civil Procedure.**

13           62. By determining Monthly Cost of Insurance Rates inconsistent with the terms of  
14 the Policies and loading unauthorized factors in Monthly Cost of Insurance Rates, Defendant  
15 impermissibly caused and continues to cause those rates to be higher than what is explicitly  
16 authorized by the Policies.  
17

18           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
19 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
20 **Procedure.**

21           63. Because Defendant calculates Cost of Insurance Charges inconsistent with the  
22 terms of the Policies, including using Monthly Cost of Insurance Rates that are higher than those  
23 authorized by the Policies, Defendant deducted Cost of Insurance Charges from the Account  
24 Values of Plaintiff and the Class in amounts greater than those authorized by their policies.  
25





1           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
2 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
3 **Procedure.**

4           72. Defendant intentionally and substantially interfered with that property interest. By  
5 deducting Cost of Insurance Charges and expense charges in unauthorized amounts from the  
6 Account Values of Plaintiff and the Class, Defendant assumed and exercised ownership over,  
7 and misappropriated or misapplied, specific funds placed in the custody of Defendant for the  
8 benefit of Plaintiff and the Class members, without authorization or consent and in hostility to  
9 the rights of Plaintiff and Class members.

11           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
12 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
13 **Procedure.**

14           73. Defendant continues to retain these funds unlawfully. At no time did Plaintiff or  
15 any Class member consent to such wrongful retention of funds by Defendant.

17           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
18 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
19 **Procedure.**

20           74. Defendant’s wrongful exercise of control over the personal property of Plaintiff  
21 and Class members constitutes conversion.

23           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
24 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
25 **Procedure.**

1 75. As a direct and proximate result of Defendant’s conduct, Plaintiff and the Class  
2 have been damaged, and these damages are continuing in nature.

3 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
4 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
5 **Procedure.**

6 76. Although requiring expert testimony, the amounts of unauthorized Cost of  
7 Insurance Charges and expense charges Defendant took from Plaintiff and the Class are capable  
8 of determination, to an identified sum, by comparing Plaintiff’s actual Cost of Insurance Charge  
9 each month to a Cost of Insurance Charge computed using a Monthly Cost of Insurance Rate  
10 determined using only the mortality factors provided for in the Policy.

11 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
12 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
13 **Procedure.**

14 77. Defendant intended to cause damage to the Plaintiff and the Class by deducting  
15 more from their Account Values than was authorized by the Policies.

16 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
17 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
18 **Procedure.**

19 78. By reason of the foregoing, Plaintiff and Class members are entitled to recover  
20 from Defendant all damages and costs permitted by law, including all amounts Defendant  
21 wrongfully converted.  
22  
23  
24  
25

1           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
2 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
3 **Procedure.**

4           **COUNT IV: VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT**

5           79.     The preceding paragraphs are incorporated by reference as if fully alleged herein.

6           **ANSWER: State Farm incorporates and restates by reference its responses to all**  
7 **preceding allegations.**

8           80.     Defendant engaged in unfair and deceptive acts or practices by deducting  
9 unauthorized expense charges from the Account Values of Plaintiff and Class Members.  
10 Defendant further engaged in unfair or deceptive acts or practices by materially failing to  
11 disclose and concealing from Plaintiff and Class Members the factors used to calculate Monthly  
12 Cost of Insurance Rates and the basis for the amounts deducted from their Account Values as  
13 Cost of Insurance Charges. Defendant alone, and not Plaintiff and Class Members, possesses the  
14 actuarial information and equations underlying the computation of rates and charges for the  
15 Policies, such that Plaintiff and Class Members were unaware of Defendants unfair and  
16 deceptive acts and practices.  
17  
18

19           **ANSWER: State Farm denies these allegations and specifically denies that this case**  
20 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
21 **Procedure.**

22           81.     Defendant provides life insurance in Washington. Defendant’s unfair and  
23 deceptive acts or practices therefore occurred in trade or commerce as part of its business  
24 operations.  
25

1           **ANSWER: State Farm admits that it provides life insurance in Washington. State**  
2 **Farm denies all remaining allegations contained in Paragraph 81 of Plaintiff's Amended**  
3 **Complaint and specifically denies that this case meets the requirements for class**  
4 **certification under Rule 23 of the Federal Rules of Civil Procedure**

5           82. Defendant's unfair and deceptive acts and practices impact the public interest.  
6 Washington regulates the insurance industry and deems misconduct by licensed insurers to affect  
7 the public interest. Moreover, Defendant's conduct applies uniformly to individuals obtaining  
8 life insurance policies from Defendant and if action is not taken, Defendant will continue to  
9 commit such wrongful acts against present and future insureds.

11           **ANSWER: State Farm admits that Washington regulates the insurance industry in**  
12 **the State of Washington. State Farm denies all remaining allegations in Paragraph 82 of**  
13 **the Plaintiff's Amended Complaint and specifically denies that this case meets the**  
14 **requirements for class certification under Rule 23 of the Federal Rules of Civil Procedure.**

15           83. Plaintiff and Class Members have been injured by Defendant's unfair and  
16 deceptive acts or practices. Plaintiff and Class Members have a property interest in their Account  
17 Values and the funds wrongfully deducted by Defendant. Defendant's wrongful conduct injured  
18 that property by reducing its value and depriving Plaintiff and Class Members of interest  
19 payments that would otherwise have accrued. This injury was caused by Defendant's deductions  
20 of Cost of Insurance Charges and expense charges in unauthorized amounts and material  
21 omissions regarding the calculation of these deductions.  
22  
23  
24  
25





1 of Insurance Rates for the Policies and, as a result, withdraws Cost of Insurance  
2 Charges from the Account Values of Plaintiff and the Class in amounts greater than  
3 those authorized by the Policies; and

4 b. By inflating Monthly Cost of Insurance Rates under the Policies with expense factors,  
5 including without limitation, maintenance, administrative, and other expense factors,  
6 that are not disclosed as being used to determine those rates, Defendant  
7 impermissibly deducted expense charges from the Account Values of Plaintiff and the  
8 Class in amounts in excess of the fixed expense charges expressly authorized by the  
9 Policies.  
10

11 **ANSWER: State Farm denies these allegations and specifically denies that this case**  
12 **meets the requirements for class certification under Rule 23 of the Federal Rules of Civil**  
13 **Procedure.**

14  
15 88. Plaintiff therefore seeks a declaration of the parties’ respective rights and duties  
16 under the Policies and requests the Court to declare the aforementioned conduct of Defendant as  
17 unlawful and in material breach of the Policies so that future controversies may be avoided.

18 **ANSWER: State Farm admits that Plaintiff seeks a declaration of the parties’ rights**  
19 **and duties under the Policy. Except as expressly admitted, State Farm denies the**  
20 **allegations contained in Paragraph 88 of Plaintiff’s Amended Complaint and specifically**  
21 **denies that this case meets the requirements for class certification under Rule 23 of the**  
22 **Federal Rules of Civil Procedure.**

23  
24 89. Pursuant to a declaration of the parties’ respective rights and duties under the  
25 Policies, Plaintiff further seeks an injunction: (1) temporarily, preliminarily, and permanently

1 enjoining Defendant from continuing to engage in conduct in breach of the Policies, and from  
2 continuing to collect unlawfully inflated charges in violation of the Policies; and (2) ordering  
3 Defendant to comply with terms of the Policies in regards to its assessment of charges against  
4 Plaintiff and Class members' Account Values.

5 **ANSWER: State Farm admits that Plaintiff seeks an injunction. Except as expressly**  
6 **admitted, State Farm denies the allegations contained in Paragraph 89 of Plaintiff's**  
7 **Amended Complaint and specifically denies that this case meets the requirements for class**  
8 **certification under Rule 23 of the Federal Rules of Civil Procedure.**

9  
10 **AFFIRMATIVE DEFENSES**

11 **FIRST DEFENSE**

12  
13 Plaintiff's claims and the claims of all members of the putative class are barred, in whole  
14 or in part, by the applicable statutes of limitations. Plaintiff's life insurance policy was issued in  
15 January 2001, more than 18 years before he filed his Complaint, and he cannot adequately  
16 demonstrate any fraudulent concealment by State Farm or other facts that would toll the running  
17 of the applicable statute of limitation. All owners of life insurance issued on Form 94030  
18 purchased their policies on or before June 30, 2004, more than 15 years before the Plaintiff filed  
19 his Complaint. By virtue of the life insurance contract and the communications between the  
20 Plaintiff and members of the putative class over the years of policy ownership, Plaintiff and all  
21 members of the putative class had adequate actual or constructive knowledge to trigger the  
22 limitations period so that the applicable statutes of limitation have now expired.

23 **SECOND DEFENSE**

24 Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel. Plaintiff  
25 received the entire benefit of the bargain and cannot now mount a claim for breach.

**THIRD DEFENSE**

1  
2 Plaintiff's claims are barred, in whole or in part, due to Plaintiff's own actions,  
3 negligence or legal fault.

**FOURTH DEFENSE**

4  
5 Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver, including  
6 without limitation the voluntary payment doctrine.  
7

**FIFTH DEFENSE**

8  
9 Plaintiff's claims are barred, in whole or in part, by his failure to mitigate damages, if  
10 any.

**SIXTH DEFENSE**

11  
12 Plaintiff's claims are barred, in whole or in part, by the filed rate doctrine.  
13

**SEVENTH DEFENSE**

14  
15 Plaintiff's claims are barred, in whole or in part, by the doctrine of laches because  
16 Plaintiff waited many years to bring the claims in this action and State Farm is prejudiced and  
17 disadvantaged by this undue delay.

**EIGHTH DEFENSE**

18  
19 Claims of the putative class are barred by or otherwise did not survive the surrender or  
20 termination of the policy.  
21

**NINTH DEFENSE**

22  
23 Claims of the putative class are barred by or otherwise did not survive either the death of  
24 the owner of the policies or the death of the insured.  
25

**TENTH DEFENSE**

1  
2 Plaintiff's and the class's claims are barred in whole or in part by the doctrines of  
3 payment, accord and satisfaction, recoupment, set-off, and/or election of remedies.

**ELEVENTH DEFENSE**

4  
5 The breach of contract claims of any class member who did not pay a premium for the  
6 alleged coverage for which they seek to recover payment fail for lack of consideration.  
7

**TWELFTH DEFENSE**

8  
9 Plaintiffs' request for treble damages violates State Farm's right to procedural and  
10 substantive due process, violates State Farm's right to protection from excessive fines, violates  
11 the guarantees against undue burdens upon commerce, and denies State Farm equal protection  
12 under the United States Constitution and the Washington Constitution. The prayer for punitive  
13 damages recovery should therefore be stricken.

**THIRTEENTH DEFENSE**

14  
15 The Complaint, and each purported cause of action alleged therein, is barred by the  
16 conduct, actions and inactions of Plaintiff, and/or the persons on whose behalf he purports to  
17 bring this action, under the doctrine of ratification.  
18

**FOURTEENTH DEFENSE**

19  
20 The Complaint's prayers for equitable relief are barred because Plaintiff, and the persons  
21 on whose behalf Plaintiff purports to bring this action, has or have adequate remedies at law.  
22

**FIFTEENTH DEFENSE**

23  
24 With respect to the claims of Plaintiff and/or the putative class, the terms and conditions  
25 imposed with respect to the insurance that is the subject of the Complaint complied with all

1 applicable statutes, regulations, and/or filed rates and policy forms. To the extent that the causes  
2 of action advanced in the Complaint challenge the terms contained in policy forms accepted for  
3 those terms and conditions, such claims are barred as a matter of law, since among other things,  
4 all such claims seek to obtain a contract term other than the filed and accepted forms.

5 **SIXTEENTH DEFENSE**

6 The claims advanced in the Complaint by Plaintiff, and/or the persons on whose behalf  
7 he purports to bring this action, insofar as they relate to alleged conduct that is subject to the  
8 regulatory jurisdiction of one or more regulatory or administrative agencies or bodies, are subject  
9 to the exclusive jurisdiction of those regulatory or administrative agencies under the doctrines of  
10 primary and/or exclusive jurisdiction. Alternatively, such claims are barred by the absence of any  
11 private right of action with regard to conduct submitted to the discretion of a regulatory or  
12 administrative agency or body.

13 **SEVENTEENTH DEFENSE**

14 The Complaint and each and every claim for relief are barred by the Parol Evidence Rule,  
15 which precludes the claimants from varying the written terms of the policies.

16 **EIGHTEENTH DEFENSE**

17 State Farm alleges that the adjudication of the claims of the putative class through  
18 purported classwide proof violates State Farm’s right to due process of law and right to trial by  
19 jury guaranteed by the United States and Washington Constitutions.  
20

21 **NINETEENTH DEFENSE**

22 The claims and/or damages of Plaintiffs and the alleged putative class may be barred, in  
23 whole or in part, by the terms, conditions, limitations, and exclusions contained within their  
24 respective policies and/or by public policy or express provision of law.  
25

**TWENTIETH DEFENSE**

The Complaint fails to state a claim upon which any relief can be granted.

**TWENTY-FIRST DEFENSE**

Plaintiff and some or all members of the putative class lack standing to bring some or all of the claims set forth in the Complaint because they have not suffered any injury in fact.

**TWENTY-SECOND DEFENSE**

Plaintiff has failed to state a claim for relief for conversion because, among other things, the only source of duty alleged arises from the life insurance policy with State Farm and the economic loss doctrine bars recovery of the purely economic damages alleged. Plaintiff does not have a property interest or other interest in the policy account value that arises from any source other than the contract that is legally sufficient to support a claim for conversion.

**TWENTY-THIRD DEFENSE**

Plaintiff cannot assert untimely claims based on fraudulent concealment as alleged in the Complaint as State Farm had no duty to disclose the conduct of which Plaintiff complains and State Farm had no intent to deceive Plaintiff or any other policyholder.

**TWENTY-FOURTH DEFENSE**

Plaintiff cannot untimely assert claims based on fraudulent concealment as alleged in the Complaint because Plaintiff has not alleged fraud with the particularity required by Rule 9(b) of the Rules of Civil Procedure.

**TWENTY-FIFTH DEFENSE**

Plaintiff’s claims are barred by the doctrines of res judicata and collateral estoppel.

**TWENTY-SIXTH DEFENSE**

1 Plaintiff has failed to state a claim for relief for conversion because, among other things,  
2 a claim for conversion cannot be based on an alleged overcharge.

3 **TWENTY-SEVENTH DEFENSE**

4 Some of the putative class members have released the claims set forth in the Amended  
5 Complaint.

6 **TWENTY-EIGHTH DEFENSE**

7  
8 As Plaintiff and the putative class members’ claims for conversion are based on the same  
9 alleged conduct as Plaintiff’s and the putative class members’ breach of contract claims, Plaintiff  
10 and the putative class members cannot recover under both.

11 **TWENTY-NINTH DEFENSE**

12 Some or all of Plaintiff’s claims and the claims of the persons he purports to represent are  
13 barred by the express provisions of those persons’ respective insurance contracts, which  
14 authorize each of the deductions about which Plaintiff complains.

15 **THIRTIETH DEFENSE**

16  
17 Plaintiff, and the other persons he purports to represent, suffered no damages by reason of  
18 any act or omission of Defendant.

19 **THIRTY-FIRST DEFENSE**

20 Plaintiff has failed to state a claim for relief under Washington’s Consumer Protection  
21 Act because he has failed to allege and cannot establish that the alleged actions of State Farm  
22 “had the capacity to deceive a substantial portion of the public.” *See* WPI 310.08 (7th Ed.).

23 **THIRTY-SECOND DEFENSE**

1 Plaintiff has failed to state a claim for relief under Washington’s Consumer Protection  
2 Act because the alleged acts of State Farm are reasonable in relation to the development and  
3 preservation of business and are further not injurious to the public interest. *See* WPI 310.02 (7th  
4 Ed.)

5 **RESERVATION OF OTHER DEFENSES**

6 State Farm is informed and believes that it may have other defenses of which it is  
7 presently unaware. State Farm reserves the right to allege additional defenses upon discovery of  
8 additional facts during the course of discovery.  
9

10 **REQUEST FOR RELIEF**

11 Wherefore, State Farm denies that Plaintiff is entitled to any of the relief he seeks,  
12 whether on behalf of himself or a putative class, and prays for judgment as follows:

- 13 1. That Plaintiff take nothing by his Complaint;
- 14 2. That the Court dismiss, with prejudice, Plaintiff’s Amended Complaint,  
15 and award State Farm its recoverable costs; and
- 16 3. That the Court award State Farm such other and further relief as it may  
17 deem just and proper.

18 **DEMAND FOR JURY TRIAL**

19 State Farm Life hereby demands a trial by jury of all issues so triable.  
20  
21  
22  
23  
24  
25



1 DATED this 30th day of March, 2020.

2 BETTS, PATTERSON & MINES, P.S.

3  
4 By /s Joseph D. Hampton

5 By /s Kara A. Tredway

6 Joseph D. Hampton, WSBA #15297

7 Kara A. Tredway, WSBA #44984

8 Betts, Patterson & Mines, P.S.

9 One Convention Place, Suite 1400

10 701 Pike Street

11 Seattle WA 98101-3927

12 Telephone: (206) 292-9988

13 Facsimile: (206) 343-7053

14 E-mail: jhampton@bpmlaw.com

15 E-mail: ktredway@bpmlaw.com

16 STINSON LLP

17 By /s Todd Noteboom, pro hac vice

18 Todd Noteboom, pro hac vice

19 Stinson LLP

20 50 South Sixth Street, Suite 2600

21 Minneapolis, MN 55402

22 Telephone: 612-335-1894

23 E mail: todd.noteboom@stinson.com

24 STINSON LLP

25 By /s Jeremy A. Root, pro hac vice

Jeremy A. Root, pro hac vice

Stinson LLP

50 South Sixth Street, Suite 2600

Minneapolis, MN 55402

Telephone: 612-335-1894

E mail: jeremy.root@stinson.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ALSTON & BIRD

By  /s/ Cari Dawson, pro hac vice

By  /s/ Tiffany Powers, pro hac vice

Cari Dawson, pro hac vice

Tiffany Powers, pro hac vice

Alston & Bird

One Atlantic Center

1201 West Peachtree Street, Suite 4900

Atlanta, GA 30309-3424

Telephone: 404-881-7000

Fax: 404-881-7777

E mail: tiffany.powers@alston.com

E mail: cari.dawson@alston.com

Attorneys for Defendant State Farm Life  
Insurance Company

STATE FARM LIFE INSURANCE  
COMPANY'S ANSWER TO SECOND  
AMENDED COMPLAINT – NO. 3:19-cv-  
06025-RBL

Betts  
Patterson  
Mines  
One Convention Place  
Suite 1400  
701 Pike Street  
Seattle, Washington 98101-3927  
(206) 292-9988

**CERTIFICATE OF SERVICE**

I, Joseph D. Hampton, hereby certify that on March 30, 2020, I electronically filed the following:

- **State Farm Life Insurance Company’s Answer To Second Amended Complaint; and**
- **Certificate of Service;**

with the Court using the CM/ECF system which will send notification of such filing to the following:

**Counsel for Plaintiff Whitman:**

Kim D. Stephens  
Rebecca Luise Solomon  
Tousley Brain Stephens  
1700 Seventh Avenue, Suite 2200  
Seattle, WA 98101  
206-682-5600  
E-mail: kstephens@tousley.com  
E-mail: rsolomon@tousley.com

**Counsel for Plaintiff Whitman:**

John J Schirger, *pro hac vice*  
Joseph M Feierabend, *pro hac vice*  
Miller Schirger LLC  
4520 Main Street, Suite 1570  
Kansas City, MO 64111  
E-mail: jschirger@millerschirger.com  
E-mail: jfeierabend@millerschirger.com

**Counsel for Plaintiff Whitman:**

Ethan M Lange, *pro hac vice*  
Matthew W. Lytle, *pro hac vice*  
Norman E. Siegel, *pro hac vice*  
Lindsay T. Perkins, *pro hac vice*  
Stueve Siegel Hanson  
460 Nichols Road, Suite 200  
Kansas City, MO 64112  
E-mail: lange@stuevesiegel.com  
E-mail: mlytle@millerschirger.com  
E-mail: siegel@stuevesiegel.com  
E-mail: perkins@stuevesiegel.com

**Counsel for Plaintiff Whitman:**

Stephen R Basser, *pro hac vice*  
Barrack Rodos & Bacine  
600 W. Broadway, Suite 900  
San Diego, CA 92101  
E-mail: sbasser@barrack.com

***Counsel for Plaintiff Whitman:***

Joseph Gentile  
Sarraff Gentile LLP  
401 Park Avenue South, 10th Floor  
New York, NY 10016  
E-mail: joseph@sarraffgentile.com

Ronan Sarraf  
Sarraff Gentile LLP  
10 Bond Street, Suite 212  
Great Neck, New York 11021  
E-mail: ronen@sarraffgentile.com

Dated this 30th day of March, 2020.

BETTS, PATTERSON & MINES, P.S.

By  /s Joseph D. Hampton

By  /s Kara A. Tredway

Joseph D. Hampton, WSBA #15297

Kara A. Tredway, WSBA #44984

Betts, Patterson & Mines, P.S.  
One Convention Place, Suite 1400  
701 Pike Street

Seattle WA 98101-3927

Telephone: (206) 292-9988

Facsimile: (206) 343-7053

E-mail: jhampton@bpmlaw.com

E-mail: ktredway@bpmlaw.com

STINSON LLP

By  /s Todd A. Noteboom (pro hac vice)

Todd A. Noteboom, *pro hac vice*

Stinson LLP  
50 South Sixth Street, Suite 2600  
Minneapolis, MN 55402

Telephone: 612-335-1894

E mail: todd.noteboom@stinson.com

STATE FARM LIFE INSURANCE  
COMPANY'S ANSWER TO SECOND  
AMENDED COMPLAINT – NO. 3:19-cv-  
06025-RBL

Betts  
Patterson  
Mines  
One Convention Place  
Suite 1400  
701 Pike Street  
Seattle, Washington 98101-3927  
(206) 292-9988

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STINSON LLP

By /s/ Jeremy A. Root (pro hac vice)  
Jeremy A. Root, *pro hac vice*  
Stinson LLP  
230 W. McCarty Street  
Jefferson City, MO 65101  
Telephone: 573-636-6263  
E mail: jeremy.root@stinson.com

ALSTON & BIRD

By /s/ Tiffany Powers (pro hac vice)  
By /s/ Cari K. Dawson (pro hac vice)  
Tiffany Powers, *pro hac vice*  
Cari K. Dawson, *pro hac vice*  
Alston & Bird  
One Atlantic Center  
1201 West Peachtree Street, Suite 4900  
Atlanta, GA 30309-3424  
Telephone: 404-881-7000  
E-mail: tiffany.powers@alston.com  
E-mail: cari.dawson@alston.com

Attorneys for Defendant State Farm Life  
Insurance Company