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13 Attorneys for Defendant *John Hancock Life Insurance Company (U.S.A.)*

14  
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **FOR THE COUNTY OF ALAMEDA**

17 BARBARA LARSON, Individually and On )  
Behalf of All Others Similarly Situated, )

18 Plaintiff, )

19 vs. )

20 JOHN HANCOCK LIFE INSURANCE )  
21 COMPANY (U.S.A.), )

22 Defendant. )

) Case No. RG16813803

) **DEFENDANT'S ANSWER AND**  
) **AFFIRMATIVE DEFENSES**

) Date: NONE SET

) Time: NONE SET

) Department: 30

) Judge: Hon. Brad Seligman

) Trial Date: None Set

) Complaint Filed: April 29, 2016

1 Defendant John Hancock Life Insurance Company (U.S.A.) (“John Hancock”) hereby  
2 answers the Complaint of Plaintiff Barbara Larson (“Plaintiff” or “Larson”) filed April 29, 2016,  
3 (the “Complaint”) as follows:

4 **INTRODUCTION**<sup>1</sup>

5 1. John Hancock admits that Plaintiff purports to bring this action as a class action  
6 on behalf of members of an alleged class of John Hancock policyholders, but denies that Plaintiff  
7 has brought a proper class action and denies that Plaintiff is entitled to any relief from John  
8 Hancock. John Hancock denies the remaining allegations in paragraph 1.

9 2. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
10 purported class member for their respective true, complete, and accurate terms. John Hancock  
11 states that the copy of the policy attached to the Complaint as Exhibit A is stamped  
12 “DUPLICATE” and is not a full, accurate, and complete copy of Plaintiff’s policy. John  
13 Hancock denies the remaining allegations in paragraph 2.

14 3. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
15 purported class member for their respective true, complete, and accurate terms. John Hancock  
16 denies the remaining allegations in paragraph 3.

17 4. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
18 purported class member for their respective true, complete, and accurate terms. John Hancock  
19 denies the remaining allegations in paragraph 4.

20 5. John Hancock admits that Plaintiff purports to bring this action as a class action  
21 under the California Code of Civil Procedure, but denies that Plaintiff has brought a proper class  
22 action and denies that Plaintiff is entitled to any relief from John Hancock. John Hancock denies  
23 the remaining allegations in paragraph 5.

24  
25 \_\_\_\_\_  
26 <sup>1</sup> For ease of reference, John Hancock uses the same headings as contained in the Complaint, but  
27 such use should not be deemed an admission of anything stated or implied in those headings. If  
28 and to the extent that the headings contained in the Complaint are deemed to be allegations, John  
Hancock denies those allegations.

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**PARTIES**

6. John Hancock is without knowledge or information sufficient to form a belief as to the allegations in paragraph 6.

7. John Hancock admits that it is a life insurance company organized and existing under the laws of Michigan and that its principal place of business is Boston, Massachusetts.

**JURISDICTION AND VENUE**

8. John Hancock admits that it issued Policy No. 3369489 to Plaintiff, and that Plaintiff represented that she resided in California at the time that the policy was issued. John Hancock states that at the time that the policy was issued, Plaintiff resided in California. John Hancock refers to Plaintiff's policy for its true, complete, and accurate terms. The remainder of Paragraph 8 states a legal conclusion for which no response is required.

9. Paragraph 9 states a legal conclusion for which no response is required.

10. John Hancock admits that its principal place of business is Boston, Massachusetts. John Hancock states that it holds an active business registration with the California Secretary of State, with a registered service agent in Sacramento, California. John Hancock admits that life insurance policies issued by John Hancock are sold and have been sold in Alameda County and further states that John Hancock contracts with insurance agents who are authorized to sell life insurance products in Alameda County. John Hancock denies the remaining allegations in paragraph 10, except to the extent that it states a legal conclusion, for which no response is required.

**GENERAL ALLEGATIONS**

11. John Hancock admits that Plaintiff purchased the policy attached to the Complaint as Exhibit A. John Hancock states that John Hancock Variable Life Insurance Company merged with John Hancock Life Insurance Company into John Hancock Life Insurance Company (U.S.A.). John Hancock refers to Plaintiff's policy for its true, complete, and accurate terms. John Hancock denies the remaining allegations in paragraph 11.

12. John Hancock admits that according to its records the owner of policy number FV 3369489 is Barbara Larson and that John Hancock has treated Barbara Larson as the owner of

1 the policy, which is in force. The remainder of paragraph 12 states a legal conclusion for which  
2 no response is required.

3 13. John Hancock admits that John Hancock Variable Life Insurance Company  
4 merged with John Hancock Life Insurance Company into John Hancock Life Insurance  
5 Company (U.S.A.). John Hancock denies that it is liable to Plaintiff or that Plaintiff is entitled to  
6 any relief from John Hancock. John Hancock denies the remaining allegations in paragraph 13.

7 14. Paragraph 14 states a legal conclusion, for which no response is required.

8 15. John Hancock refers to Plaintiff's policy and to the individual policies of each  
9 purported class member for their respective true, complete, and accurate terms. John Hancock  
10 denies the remaining allegations in paragraph 15.

11 16. John Hancock refers to Plaintiff's policy and to the individual policies of each  
12 purported class member for their respective true, complete, and accurate terms. John Hancock  
13 denies the remaining allegations in paragraph 16.

14 17. John Hancock refers to Plaintiff's policy and to the individual policies of each  
15 purported class member for their respective true, complete, and accurate terms. John Hancock  
16 denies the remaining allegations in paragraph 17.

17 18. John Hancock refers to Plaintiff's policy and to the individual policies of each  
18 purported class member for their respective true, complete, and accurate terms. John Hancock  
19 denies the remaining allegations in paragraph 18.

20 19. John Hancock refers to Plaintiff's policy and to the individual policies of each  
21 purported class member for their respective true, complete, and accurate terms. John Hancock  
22 admits that term life insurance policies usually do not contain an investment, savings, or interest  
23 component. John Hancock denies the remaining allegations in paragraph 19.

24 20. John Hancock refers to Plaintiff's policy and to the individual policies of each  
25 purported class member for their respective true, complete, and accurate terms. John Hancock  
26 denies the remaining allegations in paragraph 20.

27 21. John Hancock refers to Plaintiff's policy and to the individual policies of each  
28 purported class member for their respective true, complete, and accurate terms. John Hancock

1 admits that, in the Complaint, Plaintiff purports to use the term “Account Value” to refer to the  
2 savings component of Plaintiff’s policy and the individual policies of each purported class  
3 member. John Hancock denies the remaining allegations in paragraph 21.

4 22. John Hancock refers to Plaintiff’s policy for its true, complete, and accurate  
5 terms. John Hancock denies the remaining allegations in paragraph 22.

6 23. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
7 purported class member for their respective true, complete, and accurate terms. John Hancock  
8 denies the remaining allegations in paragraph 23.

9 24. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
10 purported class member for their respective true, complete, and accurate terms. John Hancock  
11 denies the remaining allegations in paragraph 24.

12 25. John Hancock refers to Plaintiff’s policy for its true, complete, and accurate  
13 terms. John Hancock denies the remaining allegations in paragraph 25.

14 26. John Hancock refers to Plaintiff’s policy for its true, complete, and accurate  
15 terms. John Hancock denies the remaining allegations in paragraph 26.

16 27. John Hancock refers to Plaintiff’s policy for its true, complete, and accurate  
17 terms. John Hancock denies the remaining allegations in paragraph 27.

18 28. John Hancock refers to Plaintiff’s policy for its true, complete, and accurate  
19 terms. John Hancock denies the remaining allegations in paragraph 28.

20 29. John Hancock refers to Plaintiff’s policy for its true, complete, and accurate  
21 terms. John Hancock denies the remaining allegations in paragraph 29.

22 30. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
23 purported class member for their respective true, complete, and accurate terms. John Hancock  
24 denies the remaining allegations in paragraph 30.

25 31. John Hancock refers to Plaintiff’s policy and to the individual policies of each  
26 purported class member for their respective true, complete, and accurate terms. John Hancock  
27 denies the remaining allegations in paragraph 31.

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1           32.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
2 purported class member for their respective true, complete, and accurate terms. John Hancock  
3 denies the remaining allegations in paragraph 32.

4           33.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
5 purported class member for their respective true, complete, and accurate terms. John Hancock  
6 denies the remaining allegations in paragraph 33.

7           34.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
8 purported class member for their respective true, complete, and accurate terms. John Hancock  
9 denies the remaining allegations in paragraph 34.

10          35.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
11 purported class member for their respective true, complete, and accurate terms. John Hancock  
12 refers to the document attached as Exhibit B to the Complaint for its true, complete, and accurate  
13 terms. John Hancock denies the remaining allegations in paragraph 35.

14          36.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
15 purported class member for their respective true, complete, and accurate terms. John Hancock  
16 denies the remaining allegations in paragraph 36.

17          37.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
18 purported class member for their respective true, complete, and accurate terms. John Hancock  
19 denies the remaining allegations in paragraph 37.

20          38.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
21 purported class member for their respective true, complete, and accurate terms. John Hancock  
22 denies the remaining allegations in paragraph 38.

23          39.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
24 purported class member for their respective true, complete, and accurate terms. John Hancock  
25 denies the remaining allegations in paragraph 39.

26          40.     John Hancock refers to Plaintiff’s policy and to the individual policies of each  
27 purported class member for their respective true, complete, and accurate terms. John Hancock  
28

1 denies the remaining allegations in paragraph 40, except to the extent that it states a legal  
2 conclusion, for which no response is required.

3 41. John Hancock denies the allegations contained within paragraph 41, except to the  
4 extent that it states a legal conclusion, for which no response is required.

5 42. John Hancock denies the allegations contained within paragraph 42, except to the  
6 extent that it states a legal conclusion, for which no response is required.

7 **CLASS ALLEGATIONS**

8 43. John Hancock admits that Plaintiff purports to bring this action on behalf of a  
9 class, but denies that this action can properly be pursued or maintained as a class action, that  
10 Plaintiff is a qualified class representative, and that class relief is available from John Hancock.

11 44. John Hancock denies the allegations contained within paragraph 44, except to the  
12 extent that it states a legal conclusion, for which no response is required.

13 45. John Hancock denies the allegations contained within paragraph 45, except to the  
14 extent that it states a legal conclusion, for which no response is required.

15 46. John Hancock denies the allegations contained within paragraph 46, except to the  
16 extent that it states a legal conclusion, for which no response is required.

17 47. John Hancock denies the allegations contained within paragraph 47, except to the  
18 extent that it states a legal conclusion, for which no response is required.

19 48. John Hancock denies the allegations contained within paragraph 48, except to the  
20 extent that it states a legal conclusion, for which no response is required.

21 49. John Hancock denies the allegations contained within paragraph 49, except to the  
22 extent that it states a legal conclusion, for which no response is required.

23 50. John Hancock denies the allegations contained within paragraph 50, except to the  
24 extent that it states a legal conclusion, for which no response is required.

25 51. John Hancock denies the allegations contained within paragraph 51, except to the  
26 extent that it states a legal conclusion, for which no response is required.

27 52. John Hancock denies the allegations contained within paragraph 52, except to the  
28 extent that it states a legal conclusion, for which no response is required.

1 53. John Hancock denies the allegations contained within paragraph 53, except to the  
2 extent that it states a legal conclusion, for which no response is required.

3 **FIRST CAUSE OF ACTION**

4 **(Breach of Contract – Applied Monthly Rate and Mortality-Based Rate Provisions)**

5 54. John Hancock realleges and incorporates its responses to the paragraphs above as  
6 if fully set forth herein.

7 55. John Hancock admits that according to its records the owner of policy number FV  
8 3369489 is Barbara Larson and that John Hancock has treated Barbara Larson as the owner of  
9 the policy. John Hancock admits that Plaintiff purports to bring this claim on behalf of both  
10 herself and a class of people who purchased life insurance policies from John Hancock. John  
11 Hancock denies that this action can properly be pursued or maintained as a class action, that  
12 Plaintiff is a qualified class representative, and that class relief is available from John Hancock.

13 56. Paragraph 56 states a legal conclusion, for which no response is required.

14 57. John Hancock denies the allegations contained within paragraph 57, except to the  
15 extent that it states a legal conclusion, for which no response is required.

16 58. John Hancock denies the allegations contained within paragraph 58, except to the  
17 extent that it states a legal conclusion, for which no response is required.

18 59. John Hancock denies the allegations contained within paragraph 59, except to the  
19 extent that it states a legal conclusion, for which no response is required.

20 60. John Hancock denies the allegations contained within paragraph 60, except to the  
21 extent that it states a legal conclusion, for which no response is required.

22 61. John Hancock denies the allegations contained within paragraph 61, except to the  
23 extent that it states a legal conclusion, for which no response is required.

24 **SECOND CAUSE OF ACTION**

25 **(Breach of Contract – Maintenance and/or Expense Charge Provisions)**

26 62. John Hancock realleges and incorporates its responses to the paragraphs above as  
27 if fully set forth herein.





1 **PRAYER FOR RELIEF**

2 No response to the Prayer for Relief is required as no new allegations are contained  
3 therein. To the extent necessary, John Hancock denies that Plaintiff is entitled to any relief.

4 **AFFIRMATIVE DEFENSES**

5 The affirmative defenses below are directed to "Plaintiffs," by which is meant both  
6 Plaintiff and members of any purported class.

7 **FIRST AFFIRMATIVE DEFENSE**

8 Plaintiffs lack standing to bring their claims.

9 **SECOND AFFIRMATIVE DEFENSE**

10 Plaintiffs have waived their claims against John Hancock.

11 **THIRD AFFIRMATIVE DEFENSE**

12 Plaintiffs' claims are barred by the statute of limitations, laches, and the statute of repose.

13 **FOURTH AFFIRMATIVE DEFENSE**

14 Plaintiffs are barred from asserting or recovering any damages or receiving any relief  
15 because of the doctrine of equitable estoppel.

16 **FIFTH AFFIRMATIVE DEFENSE**

17 The claims asserted in the Complaint are barred or limited with respect to any policies  
18 that are void or voidable under applicable public policy or state law.

19 **SIXTH AFFIRMATIVE DEFENSE**

20 Plaintiffs' claims against John Hancock are barred, in whole or in part, because Plaintiffs  
21 have suffered no damages.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 John Hancock is not liable because Plaintiffs ratified or otherwise acquiesced to the  
24 actions that are the subject of the Complaint.

25 **EIGHTH AFFIRMATIVE DEFENSE**

26 Plaintiffs' claims are barred by the voluntary payment doctrine.

27 **NINTH AFFIRMATIVE DEFENSE**

28 Plaintiffs have failed, in whole or in part, to mitigate any alleged damages.

1 TENTH AFFIRMATIVE DEFENSE

2 Plaintiffs are barred from asserting or recovering any damages or receiving any relief  
3 because Plaintiffs released their claims.

4 ELEVENTH AFFIRMATIVE DEFENSE

5 John Hancock has not knowingly or voluntarily waived any applicable affirmative  
6 defense and reserves the right to assert, and rely upon, such additional affirmative defenses to the  
7 Complaint as may become available or apparent as discovery progresses in this action.


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13 Respectfully submitted,

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15 DATED: June 16, 2016

BOIES, SCHILLER & FLEXNER LLP

16  
17 By

  
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