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**DEC 30 2016**

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13. SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
14. FOR THE COUNTY OF LOS ANGELES

**BC 6 4 5 3 2 6**

15. KEITH LASTER, individually and on behalf  
16. of all other similarly situated,

Case No.:

**CLASS ACTION**

**CLASS COMPLAINT AND DEMAND  
FOR JURY TRIAL**

17. Plaintiff,

18. v.

19. HARTFORD LIFE AND ACCIDENT  
20. INSURANCE COMPANY, a corporation;  
21. and DOES 1 through 100,

22. Defendants.

23. 1. Violation of Business & Professions  
Code § 17200, *et seq.* (Unlawful)
24. 2. Violation of Business & Professions  
Code § 17200, *et seq.* (Unfair)
25. 3. Breach of the Contractual Duty to Pay a  
Covered Insurance Claim
26. 4. Breach of the Duty of Good Faith and  
Fair Dealing
27. 5. Declaratory Relief

**SHERNOFF BIDART  
ECHEVERRIA LLP**  
LAWYERS FOR INSURANCE POLICYHOLDERS

1 Plaintiff Keith Laster, on behalf of himself and all others similarly situated, brings this action  
2 against defendant Hartford Life and Accident Insurance Company. Plaintiff alleges the  
3 following on information and belief, except as to those allegations that pertain to the named  
4 Plaintiff, which are alleged on personal knowledge:

#### 5 NATURE OF THE ACTION

6 1. Consumers purchase life insurance coverage to provide peace of mind to  
7 themselves, and financial support to their families when they die. The life insurance coverage  
8 at issue here is no exception. In fact, Plaintiff's and class members' life insurance coverage  
9 provides an extra layer of protection to ensure consumers are able maintain their life  
10 insurance coverage in the event they become disabled. Plaintiff's and class members' life  
11 insurance policies include a "waiver of premium" provision intended to ensure that consumers  
12 will not be priced out of their coverage in the event they become disabled and lose their job.  
13 Under the waiver of premium provision, an insured that becomes disabled is no longer  
14 required to pay premiums on his or her life insurance coverage and cannot be dropped from  
15 coverage for failure to pay. Without such a protection, consumers face the very real threat that  
16 their coverage will be terminated if they are unable to pay their premium when they become  
17 disabled, resulting in the loss of valuable life insurance coverage.

18 2. This insurance bad faith case arises from the unlawful corporate scheme of  
19 defendant Hartford Life and Accident Insurance Company ("Hartford") to deny valid waiver  
20 of life insurance premium claims. This unlawful scheme is perpetrated by use of a definition  
21 of "Total Disability" in consumers' life insurance contract that is contrary to California law.  
22 Hartford benefits financially from this illegal business practice by terminating valuable life  
23 insurance coverage that it would otherwise be required to pay out upon the insured's death.

24 3. Longstanding California Supreme Court case law requires that insurance  
25 companies use California's standard definition of Total Disability in a life insurance policy  
26 that waives premiums when the insured becomes disabled. This standard definition of Total  
27 Disability requires Hartford to approve claims where the insured is unable to perform with  
28 reasonable continuity the *substantial and material duties* of his or her job due to sickness or

1 bodily injury. (*Culley v. New York Life Insurance Company* (1945) 27 Cal.2d 187, 191;  
2 *Erreca v. Western States Life Insurance Company* (1942) 19 Cal.2d 388, 394, [“Material and  
3 Substantial Duty Standard”].)

4 4. Hartford ignores this standard and denies waiver of premium claims where an  
5 insured can do “any work,” even if an insured can work only a few hours a week at a low-  
6 paying job. This definition of Total Disability clearly violates California law by ignoring the  
7 Material and Substantial Duty Standard.

8 5. As a result of Hartford’s practices in violation of California law, as long as a  
9 consumer can perform any work, even if only part-time work, the consumer is deprived of the  
10 waiver of premium on his or her life insurance policy. As a result, consumers with disabilities  
11 who cannot work are unable to afford the cost of premiums of their life insurance coverage  
12 and face the very real risk the coverage will lapse as a result of their inability to afford the  
13 premium.

14 6. Plaintiff Keith Laster is but one victim of Hartford’s scheme. Keith was insured  
15 under a \$250,000 Hartford life insurance policy. Under the policy, Hartford promised to  
16 waive the premium payments if an insured becomes Totally Disabled.

17 7. In 2013, while employed as a senior construction inspector for the City of  
18 Anaheim, Keith underwent shoulder surgery to alleviate disabling pain caused by arthritis in  
19 his shoulder. The procedure did not help, so Keith’s doctors prescribed him powerful pain  
20 medications. While taking these drugs, Keith was barred from driving or returning to work. In  
21 October 2014, Keith underwent a second surgery but it was similarly unsuccessful. Keith  
22 continued to be prescribed powerful pain medications that continue to prevent him from  
23 working.

24 8. Hartford initially agreed that Keith was totally disabled and waived the premiums  
25 due under his policy. But then, despite Keith’s continuing inability to work, Hartford  
26 concluded that he was no longer totally disabled under the company’s unlawful definition of  
27 Total Disability. According to Hartford, in violation of California law, since Keith could work  
28 15 hours a week, this qualified as “any work” under Hartford’s definition of Total Disability.

1 Hartford completely ignored California’s Material and Substantial Duty Standard.

2 9. Keith appealed Hartford’s denial, but Hartford upheld its decision, again  
3 reiterating its unlawful position: “Please be advised, ‘any work’ would be characterized as the  
4 physical and mental capacity to perform at least sedentary level work on a part-time basis (12-  
5 15 hours [per] week) and does not mean substantial gainful work on a full-time basis.”

6 10. By relying on this unlawful definition of Total Disability to revoke the waiver of  
7 premium on his life insurance policy, Hartford thereby induced the wrongful lapse of the  
8 policy, depriving Keith of the value and protection of its \$250,000 in benefits.

9 11. Keith brings this action on behalf of himself and on behalf of a class of other  
10 California residents who are or have ever been insured under a Hartford Life Insurance Policy  
11 that contains a waiver of premium provision subject to Hartford’s illegal definition of Total  
12 Disability. Plaintiff seeks to represent a class of persons enrolled in Hartford plans that are not  
13 governed by the Employee Retirement Income Security Act (“ERISA”).

#### 14 THE PARTIES

15 12. Plaintiff Keith Laster is, and at all relevant times was, a citizen of the State of  
16 California, residing in Riverside County.

17 13. Defendant Hartford Life and Accident Insurance Company is a corporation  
18 organized and existing under the laws of the state of Connecticut and is authorized to transact  
19 and is transacting a substantial amount of its business in California.

20 14. The true names and capacities, whether individual, corporate, associate or other,  
21 of Does 1-10 are unknown to Plaintiff, who therefore sues these defendants by such fictitious  
22 names. Plaintiff alleges that each Doe defendant is legally responsible in some manner for the  
23 events and happenings referred to herein and will ask leave of this court to insert their true  
24 names and capacities when they become known.

#### 25 JURISDICTION AND VENUE

26 15. This Court has jurisdiction of this action under Article VI, section 10 of the  
27 California Constitution and section 410.10 of the Code of Civil Procedure.

28 16. Jurisdiction over Hartford is also proper because Hartford has purposely availed

1 itself of the privilege of conducting business activities in California, and because Hartford  
2 currently maintains systematic and continuous business contacts with this State and has many  
3 thousands of policyholders who are residents of this State.

4 17. Venue is proper in this Court because Plaintiff and many Class Members did  
5 business with Hartford in this County, Hartford engaged in business in this County, and  
6 because Hartford received substantial profits from policyholders who reside in this County

### 7 **FACTUAL ALLEGATIONS**

#### 8 **A. Hartford's Life Insurance Policy Violates California Law**

9 18. Hartford issued a life insurance policy to the City of Anaheim bearing policy  
10 number 0GL395261 (the Policy). Keith was covered by the Policy as an employee of the City  
11 of Anaheim. The Policy promised a waiver of premium if Keith ever became totally disabled.  
12 Attached as Exhibit A is a true and correct copy of the Policy.

13 19. Since 1945, the California Supreme Court has held that California's standard  
14 definition of Total Disability must be applied to any life insurance policy that waives  
15 premiums when an insured becomes disabled. (*Culley v. N.Y. Life Ins. Co.* (1945) 27 Cal.2d  
16 187, 191.)

17 20. Under California's standard definition of Total Disability, an insured is  
18 considered totally disabled if he is unable to perform *the material and substantial duties* of his  
19 or her present job or, after 24 months, another job for which he is reasonably qualified by  
20 education, experience or training.

21 21. Hartford's definition of Total Disability states as follows:

22 What does Disabled mean? Disabled means that You have a condition that  
23 prevents You from doing *any work* for which You are or could become  
24 qualified by education, training or experience and it is expected that this  
25 condition will last for at least nine consecutive months from Your last day  
of work as an Active Full-time Employee; or You have been diagnosed  
with a life expectancy of 12 months or less. [Emphasis added.]

26 22. The definition of Total Disability in Hartford's Policy violates California law  
27 because it only waives premiums if the insured is prevented from doing "any work." By  
28 implementing this definition in violation of California law, Hartford's practice is to deny any

1 claim for a waiver of premiums if the insured would be able to work at least a few hours a  
2 week, *i.e.* “any work.” This standard plainly violates California’s Material and Substantial  
3 Duties Standard. These longstanding California standards were recently codified by the  
4 California Legislature. Specifically, under the statute, an insurer may not use a definition of  
5 Total Disability in life insurance policies that contain waiver of premium provisions that is  
6 “less favorable” to the insured. (Ins. Code § 10271.1) By failing to follow California’s  
7 Material and Substantial Duty standard, Hartford is clearly doing exactly that—using a  
8 standard that is less favorable to the insured.

9 **B. Hartford Violated California Law by Denying Keith’s Claim for a Waiver of**  
10 **Premiums**

11 23. In 2013, Keith could no longer work at his job as a senior construction inspector  
12 for the City of Anaheim as a result of arthritis that caused severe pain in Keith’s left shoulder  
13 and left wrist. According to Dr. Edward Yian, Keith’s doctor, a lack of cartilage in Keith’s  
14 shoulder caused the bones to grind against one another.

15 24. In September 2013, Dr. Yian surgically placed a titanium ball in Keith’s left  
16 shoulder. The procedure provided only nominal relief, and the disabling pain persisted. To  
17 help Keith manage the pain, Dr. Yian prescribed powerful pain medications, including the  
18 narcotics Norco and Tramadol. The drugs helped somewhat, but not a day passed without  
19 Keith enduring severe episodes of pain, which started in his shoulder and then extended into  
20 his neck and arm.

21 25. With Keith relying on narcotics to manage his pain, the City of Anaheim would  
22 not allow him to return to work, either in the field or at a desk.

23 26. Disabled, Keith applied for a waiver of premium under his Hartford life insurance  
24 Policy. But he was denied. Keith appealed the denial.

25 27. In a letter dated October 27, 2014, Hartford reversed its denial. The letter stated  
26 that the evidence in Keith’s claim file supported a finding that Keith was totally disabled and,  
27 accordingly, the company would begin waiving Keith’s life insurance premiums. Attached as  
28 Exhibit B is a true and correct copy of the October 27, 2014 Letter.

1           28.     In October 2014, Keith underwent a total replacement surgery on his left  
2 shoulder. The procedure again did not help, so Keith’s doctors continued to prescribe him  
3 powerful pain medications that prevented him from working.

4           29.     Nearly a year later, by letter dated August 5, 2015, Hartford revoked the waiver  
5 of premium. Hartford concluded, in violation of California law, that Keith was not totally  
6 disabled because Keith was not prevented from doing “any work”:

7                   Based on the terms of the Policy coverage may be continued under the Waiver  
8 of Premium provision, if you remain totally disabled from *any work*. Dr. Yian  
9 indicates that you can lift up to 10 pounds bilaterally and you can work *15  
hours a week, 3 hours per day*. As such, you no longer meet the above  
definition of disability. (Emphasis added.)

10           Attached as Exhibit C is a true and correct copy of the August 5, 2015 Letter.

11           30.     By denying Keith’s claim, Keith was forced to appeal for a second time and ask  
12 for reinstatement of the waiver of premium.

13           31.     In a letter dated October 15, 2015, Hartford affirmed its decision to revoke the  
14 waiver of premium provision, asserting that Keith did not experience a “total loss of  
15 functionality and impairment” and therefore could still “*work part-time* as an unskilled  
16 laborer.” (Emphasis added.) The letter went on to say that under the Policy’s definition, the  
17 term “any work” would “be characterized as the physical and mental capacity to perform at  
18 least sedentary level work on a part-time basis (12-15 hours week) and does not mean  
19 substantial gainful work on a full-time basis.” The letter then posited several “unskilled  
20 sedentary-level occupations” for Keith: “plastic hospital assembler, electronics worker and  
21 finish inspector.” The definition of Total Disability that Hartford used to terminate Keith’s  
22 waiver of premium contravenes California law. Attached as Exhibit D is a true and correct  
23 copy of the October 15, 2015 Letter.

24           32.     Hartford knew that since Keith was not working as a result of his Total Disability,  
25 his Policy would lapse for nonpayment if the premiums were not waived. Hartford intended  
26 this result and induced this result, leaving Keith without the protection of \$250,000 in benefits  
27 of the Life Policy.

28

1 CLASS ACTION ALLEGATIONS

2 33. This action is brought on behalf of the Plaintiff individually, and on behalf of all  
3 others similarly situated, pursuant to Code of Civil Procedure section 382 and Civil Code  
4 section 1781.

5 34. **The Class.** Plaintiff seeks to represent the following Class, on behalf of all  
6 Plaintiffs:

7 All current California residents who are or have ever been insured under a Hartford  
8 Life Insurance Policy not governed by ERISA that contains a waiver of premium  
9 provision subject to Hartford’s illegal definition of Total Disability.

10 **Subclass 1.** Plaintiff also seeks to represent the following subclass (“Subclass 1”):

11 All California residents currently insured under a Hartford Life Insurance Policy that  
12 contains a waiver of premium provision subject to Hartford’s illegal definition of  
13 Total Disability, who have not submitted a waiver of premium claim.

14 **Subclass 2.** Plaintiff also seeks to represent the following subclass (“Subclass 2”):

15 All California residents who have ever had a waiver of premium claim denied under a  
16 Hartford life insurance policy because they did not meet Hartford’s definition of Total  
17 Disability.

18 **Subclass 3.** Plaintiff also seeks to represent the following subclass (“Subclass 3”):

19 All California residents, still living, who have ever had their Hartford life insurance  
20 policy lapse after having their waiver of premium claim denied because they did not  
21 meet Hartford’s definition of Total Disability.

22 **Subclass 4.** Plaintiff also seeks to represent the following subclass (“Subclass 4”):

23 All beneficiaries of any California residents, now deceased, who have ever had their  
24 Hartford life insurance policy lapse after having their waiver of premium claim denied  
25 because they did not meet Hartford’s definition of Total Disability.

26 35. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court to  
27 amend or modify the class description with greater specificity, by further division into  
28 subclasses or by limitation to particular issues.

36. The proposed Class is composed of thousands of persons dispersed throughout





1 the State of California and joinder is impractical. The precise number and identity of Class  
2 Members are unknown to Plaintiff, but can be obtained from Hartford's records.

3 37. There are questions of law and fact common to members of the Class, which  
4 predominate over questions affecting only individual Class Members.

5 38. Plaintiff is a member of the Class and Plaintiff's claims are typical of the claims  
6 of the Class.

7 39. Plaintiff is willing and prepared to serve the Court and the proposed Class in a  
8 representative capacity. Plaintiff will fairly and adequately protect the interests of the Class  
9 and have no interests adverse to, or which conflict with the interests of, the other members of  
10 the Class.

11 40. The self-interests of Plaintiff are co-extensive with, and not antagonistic to, those  
12 of absent Class members. Plaintiff will undertake to represent and protect the interests of  
13 absent Class members.

14 41. Plaintiff has engaged the services of counsel indicated below who are experienced  
15 in complex class litigation, will adequately prosecute this action, and will assert and protect  
16 the rights of and otherwise represent Plaintiff and absent Class Members.

17 42. The prosecution of separate actions by individual members of the Class would  
18 create a risk of inconsistency and varying adjudications, establishing incompatible standards  
19 of conduct for Hartford.

20 43. Hartford has acted on grounds generally applicable to the Class, thereby making  
21 relief with respect to the members of the Class as a whole appropriate.

22 44. A class action is superior to other available means for the fair and efficient  
23 adjudication of this controversy. Prosecution of the complaint as a class action will provide  
24 redress for individual claims too small to support the expense of complex litigation and  
25 reduce the possibility of repetitious litigation.

26 45. Plaintiff does not anticipate any unusual or difficult management problems with  
27 the pursuit of this Complaint as a class action.

28

1 FIRST CAUSE OF ACTION:

2 Violations of Business & Professions Code § 17200, *et seq.* –

3 Unlawful Business Acts and Practices

4 (On Behalf of Plaintiff and Subclasses 1, 2, 3, 4)

5 46. Plaintiff incorporates by reference each of the preceding paragraphs as though  
6 fully set forth herein.

7 47. Business and Professions Code section 17200, *et seq.* prohibits acts of “unfair  
8 competition” which is defined by Business and Professions Code section 17200 as including  
9 “any unlawful, unfair or fraudulent business act or practice . . . .”

10 48. Hartford’s conduct, and the conduct of Does 1 through 100, as described above,  
11 constitutes unlawful business acts and practices.

12 49. Hartford and Does 1 through 100 have violated and continue to violate Business  
13 and Professions Code section 17200’s prohibition against engaging in “unlawful” business  
14 acts or practices, by, *inter alia*, violating longstanding California case law, and provisions of  
15 the Insurance Code.

16 50. Plaintiff and Class Members have suffered injury in fact and lost money and/or  
17 property as a result of Hartford’s and Does 1 through 100’s unlawful business acts and  
18 practices by:

- 19 (1) As to Subclass 1, Subclass 2, Subclass 3, and Subclass 4: having to pay  
20 insurance premiums that otherwise should have been waived had Hartford  
21 complied with California law; and  
22 (2) As to Subclass 2, Subclass 3, and Subclass 4: having their life insurance  
23 policies lapse that otherwise would not have lapsed had Hartford complied  
24 with California law.

25 51. As a result of Hartford’s and Does 1 through 100’s violations of the Business and  
26 Professions Code section 17200, Plaintiff seeks an order of this Court enjoining Hartford’s  
27 continued violations. Specifically:

- 28 (1) As to Subclass 1, Subclass 2, Subclass 3, and Subclass 4:

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- i. Plaintiff seeks an injunction barring Hartford from employing an illegal definition of Total Disability when determining whether to enforce a waiver of premium provision in a life insurance policy; and
- ii. Plaintiff also seeks an order for disgorgement of the profits derived from Hartford’s illegal business acts and practices, including restitution of all monies and/or premiums paid to Hartford that should have been waived.

(2) As to Subclass 2, Subclass 3, and Subclass 4: Plaintiff seeks an order from this Court to reinstate any life insurance policy that lapsed after the denial of a waiver of premium claim based on Hartford’s unlawful definition of Total Disability.

(3) As to Subclass 4: Plaintiff seeks an order from this Court ordering Hartford to pay out the benefits of any life insurance policy that lapsed after the denial of a waiver of premium claim based on Hartford’s unlawful definition of Total Disability, and that has since vested as a result of the death of the insured.

**SECOND CAUSE OF ACTION:  
Violations of Business & Professions Code § 17200, et seq. –  
Unfair Business Acts and Practices  
(On Behalf of Plaintiff and Subclasses 1, 2, 3, 4)**

52. Plaintiff incorporates by reference each of the preceding paragraphs as though fully set forth herein.

53. Hartford’s conduct, and the conduct of Does 1 through 100, as described above, constitutes unfair business acts and practices under Business and Professions Code section 17200, et seq.

54. Plaintiff and other members of the Class suffered a substantial injury in fact resulting in the loss of money or property by virtue of Hartford’s and Does 1 through 100’s conduct.

1           55.     Hartford's and Does 1 through 100's conduct does not benefit consumers or  
2 competition. Indeed, the injury to consumers and competition is substantial and outweighs  
3 any perceived benefits.

4           56.     Plaintiff and Class Members could not have reasonably avoided the injury each of  
5 them suffered.

6           57.     The gravity of the consequences of Hartford's and Does 1 through 100's conduct  
7 as described above outweighs any justification, motive or reason and therefore is immoral,  
8 unethical, oppressive, unscrupulous, and offends established public policy delineated in  
9 California law and the Insurance Code, as well as their underlying purposes.

10          58.     Plaintiff and Class Members have suffered injury in fact and lost money and/or  
11 property as a result of Hartford's and Does 1 through 100's unfair business acts and practices  
12 by:

13                   (1) As to Subclass 1, Subclass 2, Subclass 3, and Subclass 4: having to pay  
14 insurance premiums that otherwise should have been waived had Hartford  
15 complied with California law; and

16                   (2) As to Subclass 2, Subclass 3, and Subclass 4: having their life insurance  
17 policies lapse that otherwise would not have lapsed had Hartford complied  
18 with California law.

19          59.     As a result of Hartford's and Does 1 through 100's violations of the Business and  
20 Professions Code section 17200, Plaintiff seeks an order of this Court enjoining Hartford's  
21 continued violations. Specifically:

22                   (1) As to Subclass 1, Subclass 2, Subclass 3, and Subclass 4:

23                   i.     Plaintiff seeks an injunction barring Hartford from employing an illegal  
24 definition of Total Disability when determining whether to enforce a  
25 waiver of premium provision in a life insurance policy; and

26                   ii.    Plaintiff also seeks an order for disgorgement of the profits derived  
27 from Hartford's illegal business acts and practices, including restitution  
28 of all monies and/or premiums paid to Hartford that should have been

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waived.

(2) As to Subclass 2, Subclass 3, and Subclass 4: Plaintiff seeks an order from this Court to reinstate any life insurance policy that lapsed after the denial of a waiver of premium claim based on Hartford's unlawful definition of Total Disability.

(3) As to Subclass 4: Plaintiff seeks an order from this Court ordering Hartford to pay out the benefits of any life insurance policy that lapsed after the denial of a waiver of premium claim based on Hartford's unlawful definition of Total Disability, and that has since vested as a result of the death of the insured.

**THIRD CAUSE OF ACTION:**

**Breach of Contractual Duty to Pay a Covered Insurance Claim  
(On Behalf of Plaintiff and Subclasses 2, 3, 4)**

60. Plaintiff refers to all preceding paragraphs and incorporates them as though set forth in full in this cause of action.

61. Plaintiff and Class Members suffered a loss when they became totally disabled and were no longer able to perform the material and substantial duties of their occupation. Under Hartford's Life Insurance policies, plaintiff and Class Members' premiums should have been waived—a covered benefit under the policies.

62. Plaintiff and Class Members notified Hartford of the loss, and Hartford wrongfully denied Plaintiff's and Class Members' claims.

63. Plaintiff and Class Members were forced to either continue paying premiums that should have been waived under the policies, or have their policies lapse—causing Plaintiff and Class Members the value and protection of the policy benefits.

**FOURTH CAUSE OF ACTION:**

**Breach of the Duty of Good Faith and Fair Dealing  
(On Behalf of Plaintiff and Subclasses 2, 3, 4)**

64. Plaintiff refers to all preceding paragraphs and incorporates them as though set

1       forth in full in this cause of action.

2           65.       In every insurance policy there exists an implied duty of good faith and fair  
3       dealing that the insurance company will not do anything to injure the right of the insured to  
4       receive the benefit of the policy. Hartford breached its duty of good faith and fair dealing  
5       owed to Plaintiff and Class Members and deprived them of the benefits of the Policy in the  
6       following ways:

- 7           a.       violating California law and California Insurance Code section 10271.1 by using a  
8           definition of Total Disability that deviates and is less favorable to the insured than  
9           the one mandated by law;
- 10          b.       unreasonably training and incentivizing its claims department, its personnel, its  
11          in-house consultants and doctors and its high-level directors to terminate  
12          legitimate claims based on its unlawful policy definition;
- 13          c.       unreasonably failing to consider Plaintiff's and Class Members' interests at least  
14          as much as its own in investigating and evaluating their eligibility for waiver of  
15          premium claims;
- 16          d.       unreasonably denying waiver of premium claims as a matter of company  
17          economics instead of based on the merits of Plaintiff's and Class Members'  
18          eligibility and according to California law;
- 19          e.       unreasonably and without proper cause failing to properly investigate or evaluate  
20          Plaintiff and Class Members' disability fairly and in good faith by seeking and  
21          using information in a manner inconsistent with California law to create a  
22          wrongful justification for denial of waiver of premium claims;
- 23          f.       intentionally engineering a lapse of coverage by denying waiver of premium  
24          claims at a time when Plaintiff and Class Members were totally disabled, thereby  
25          depriving Plaintiff and Class Members the ultimate benefit of their policies.

26           66.       Hartford breached its duty of good faith and fair dealing by other acts or  
27       omissions of which Plaintiff is presently unaware but which will be shown at trial.

28           67.       As a proximate result of the aforementioned unreasonable conduct of Hartford,

1 Plaintiff and Class Members suffered and will continue to suffer damages in an amount to be  
2 proven at trial.

3 68. As a further proximate result of the unreasonable conduct of Hartford, Plaintiff  
4 was compelled to retain legal counsel and to institute litigation to obtain the benefits due  
5 under his Policy. Therefore, Hartford is liable for those attorney fees, witness fees and  
6 litigation costs reasonably incurred in order to obtain the Policy benefits owed.

7 69. Hartford furthermore committed institutional bad faith. Hartford's institutional  
8 bad faith amounts to reprehensible conduct because the conduct is part of a repeated pattern of  
9 unfair practices and not an isolated occurrence. The pattern of unfair practices constitutes a  
10 conscious course of wrongful conduct that is firmly grounded in the established company  
11 policy of Hartford. Hartford's institutional bad faith includes using an unlawful definition of  
12 Total Disability to deny valid waiver of disability claims in order to save money and increase  
13 profits. Hartford does this by training and incentivizing its claims department, its personnel,  
14 its in-house consultants and doctors and its high-level directors to terminate legitimate claims  
15 based on its unlawful policy definition.

16 70. Hartford's conduct described herein was intended to cause injury to Plaintiff and  
17 Class Members and/or was despicable conduct carried out with a willful and conscious  
18 disregard of the rights of Plaintiff and Class Members. Said conduct subjected Plaintiff and  
19 Class Members to cruel and unjust hardship in conscious disregard of their rights and/or was  
20 an intentional misrepresentation, deceit or concealment of material facts known to Hartford  
21 with the intention to deprive Plaintiff and Class Members of property, legal rights or to  
22 otherwise cause injury. Said conduct thus constitutes malice, oppression or fraud under  
23 California Civil Code section 3294, thereby entitling Plaintiff and Class Members to punitive  
24 damages in an amount appropriate to punish or set an example of Hartford.

25 **FIFTH CAUSE OF ACTION**

26 **Declaratory Relief**

27 **(On Behalf of Plaintiff and Subclasses 1, 2, 3, 4)**

28 71. Plaintiff incorporates by reference each of the preceding paragraphs as though

1 fully set forth herein.

2 72. California Code of Civil Procedure section 1060 provides that any person  
3 “interested under ... a contract ... may, in cases of actual controversy relating to the legal  
4 rights and duties of respective parties” bring an action in Superior Court for a declaration of  
5 his or her rights and the “the court may make a binding declaration of these rights or duties,  
6 whether or not further relief is or could be claimed at the time.”

7 73. An actual controversy has arisen between Plaintiff and the members of the Class  
8 he represents, on the one hand, and Hartford and Does 1 through 100 on the other hand, as to  
9 their respective rights and obligations under their life insurance contracts between them.

10 74. Hartford contends that its conduct was proper.

11 75. Plaintiff seeks a declaration as to the respective rights and obligations of the  
12 parties.

### 13 PRAYER FOR RELIEF

14 Plaintiff, on his own behalf and on behalf of the Class, prays for relief as follows, as  
15 applicable to the appropriate causes of action set forth above:

- 16 1) An Order certifying the proposed Class and Subclasses pursuant to Code of Civil  
17 Procedure section 382 and Civil Code section 1780 *et seq.* and appointing  
18 Plaintiff to represent the proposed Class and designating his counsel as Class  
19 Counsel;
- 20 2) An Order enjoining Hartford from continuing to engage in the conduct described  
21 herein;
- 22 3) An Order awarding Plaintiff and the Class and Subclasses restitution and such  
23 other relief as the Court deems proper;
- 24 4) An Order awarding Plaintiff and the Class damages, including the full value of  
25 any lost policy and the refund of any premiums, for failure to provide coverage  
26 for any waiver of premium claims, plus interest, including prejudgment interest,  
27 and other economic and consequential damages, in a sum to be determined at the  
28 time of trial;



- 1           5) An Order awarding Plaintiff and the Class punitive and exemplary damages in an
- 2           amount appropriate to punish or set an example of Hartford;
- 3           6) An Order trebling statutory damages, including punitive damages, as provided by
- 4           California Civil Code section 3345, for unfair or deceptive practices against a
- 5           disabled person;
- 6           7) An Order declaring the rights and obligations of Plaintiff and Class Members, on
- 7           the one hand, and Hartford, on the other, with regard to the business practices
- 8           alleged;
- 9           8) An Order awarding Plaintiff attorney fees, costs, and expenses as authorized by
- 10          applicable law; and
- 11          9) For such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial on all issues that can be heard by a jury.

DATED: December 28, 2016

Respectfully Submitted,



By: \_\_\_\_\_

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