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California, on the complaint of Bill Lockyer,
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Insurance Commissioner
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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Plaintiff,

17 v.

18 FAMILY FIRST ADVANCED ESTATE
PLANNING, a California corporation;
19 FAMILY FIRST INSURANCE SERVICES, a
California corporation; AMERICAN
20 INVESTORS LIFE INSURANCE
COMPANY, INC., a Kansas corporation;
21 GROUP LEGAL SERVICES, INC., a
California corporation; SENIOR LAW
22 PRACTICE GROUP, A PROFESSIONAL
CORPORATION, formerly known as Thomas
23 R. Lee, a Professional Corporation, a California
corporation; NICK A. MICHAELS; JOHN
24 OWEN; THOMAS R. LEE; and DOES 1
through 200, inclusive,

25 Defendants.
26

Case No.:

**COMPLAINT FOR CIVIL
PENALTIES, RESTITUTION,
INJUNCTIVE RELIEF, AND OTHER
EQUITABLE RELIEF**

27 The Attorney General brings this action on behalf of plaintiff, the People of the State
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1 5. At all relevant times, Defendant John Owen (“Owen”) has been the president of
2 Defendant Family First Insurance Services, the vice president of Defendant Family First
3 Advanced Estate Planning, and an appointed agent of Defendant American Investors Life
4 Insurance Company. Defendant Owen is sued individually.

5 6. As used in this complaint, the term “Family First” shall refer to Family First
6 Advanced Estate Planning, Family First Insurance Services, Michaels, Owen, and Does 1-150 and
7 176-185, inclusive.

8 7. Defendant American Investors Life Insurance Company, Inc. (“American
9 Investors”) is a Kansas corporation and at all relevant times has transacted business in the State
10 of California, including in the County of Los Angeles.

11 8. Defendant Group Legal Services, Inc. is a California corporation and at all relevant
12 times has transacted business in the State of California, including in the County of Los Angeles.

13 9. Defendant Senior Law Practice Group, A Professional Corporation (“Senior Law
14 Practice Group”) is a California corporation, was formerly known as Thomas R. Lee, A
15 Professional Corporation, and at all relevant times has transacted business in the State of
16 California, including in the County of Los Angeles.

17 10. At all relevant times, Defendant Thomas R. Lee has transacted business in the
18 State of California, including in the County of Los Angeles. Defendant Thomas R. Lee is an
19 attorney. However, this action is not based on Thomas R. Lee’s representation of any of the
20 other defendants in this matter.

21 11. Plaintiff is not aware of the true names or capacities of the defendants sued as
22 Does 1 through 200, inclusive, and therefore sues these defendants by such fictitious names.
23 Does 176 through 200, inclusive, are attorneys, but this action is not based on their representation
24 of any of the other defendants in this matter. Each fictitiously-named Defendant is responsible in
25 some manner for the activities alleged in this complaint. Plaintiff will amend this Complaint to
26 add the true names of the fictitiously-named Defendants once they are discovered.

1 12. As used in this complaint, “Defendant” or “Defendants” means Does 1 through
2 200, Family First, American Investors, Group Legal Services, and each of the individually named
3 Defendants. As used in this complaint, the term “Attorney Defendants” means Defendants
4 Senior Law Practice Group, Thomas R. Lee, and Does 176-200, inclusive.

5 13. Whenever reference is made in this Complaint to any act of Defendants, that
6 allegation shall mean that each Defendant acted individually and jointly with the other Defendants.

7 14. At all relevant times, each Defendant committed the acts, or caused, ratified or
8 permitted others to commit the acts alleged in this Complaint.

9 15. Any allegation about any acts of any corporate or other business Defendant means
10 that the corporation or other business did the acts alleged through its officers, directors,
11 employees, agents and/or representatives while they were acting within the actual or ostensible
12 scope of their authority.

13 16. At all relevant times, some or all of the Defendants acted as the agent of the
14 others, and all of the Defendants acted within the scope of their agency if acting as an agent of
15 another Defendant.

16 17. At all relevant times, each Defendant knew or realized that the other Defendants
17 were engaging in or planned to engage in the violations of law alleged in this Complaint.
18 Knowing or realizing that other Defendants were engaging or planning to engage in such unlawful
19 conduct, each Defendant nevertheless facilitated or aided and abetted the commission of those
20 unlawful acts. Each Defendant intended to and did encourage, facilitate, aid and abet, or assist in
21 the commission of the unlawful acts, and thereby aided and abetted the other Defendants in the
22 unlawful conduct.

23 18. Defendants have engaged in a conspiracy, common enterprise, and common course
24 of conduct, the purpose of which is and was to engage in the violations of law alleged in this
25 Complaint. The conspiracy, common enterprise, and common course of conduct continues to the
26 present.

1 19. The violations of law alleged in this Complaint occurred in Los Angeles County
2 and elsewhere throughout California.

3 **DEFENDANTS' BUSINESS ACTS AND PRACTICES**

4 20. As part of their scheme to sell annuities, Defendants, through Family First, solicit
5 consumers who are predominantly senior citizens, by telemarketing, sending mailers, conducting
6 “seminars” and presentations at senior citizen centers, and by other methods, and offer to present
7 a free in-home consultation about living trusts and related estate planning products and services.
8 Pursuant to their training, telemarketers employed by Family First tell consumers that they need to
9 purchase a living trust in order to avoid probate and reduce estate taxes, and urge consumers to
10 schedule an in-home consultation with a Family First sales representative. In their marketing
11 activities, Defendants either do not disclose, or do not clearly disclose, that a primary purpose of
12 the solicitations is to develop leads to sell annuities.

13 21. The telemarketers employed by Family First also target consumers who already
14 have living trusts, by representing to these consumers that their trusts, or portions of their trusts,
15 need to be updated, whether or not there is any need to update the trusts, or by urging consumers
16 to schedule a free in-home consultation so that a sales representative can review their trusts to
17 make sure they are current, accurate, and sufficient to avoid probate. The telemarketers either do
18 not disclose or do not clearly disclose that a primary purpose of the solicitations is to develop
19 leads to sell annuities.

20 22. After one of the telemarketers sets an appointment with a consumer, Family First
21 sends a sales representative to the consumer’s home. The sales representatives are not attorneys
22 or experts in estate planning. Nevertheless, and pursuant to their training, during these private,
23 in-home visits, they give legal advice regarding the consumer’s estate planning needs, including
24 the particular estate planning documents and services Family First sells. Some of the sales
25 representatives are also life insurance agents appointed by American Investors to sell its insurance
26 products.

27 23. If a consumer has an existing will or trust, regardless of whether the existing will
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1 or trust is in fact adequate for that consumer's needs, the sales representatives advise him or her
2 to purchase the living trust "amendments" or "updates" that Family First offers for sale.

3 24. The sales representatives negotiate and determine the price, and execute contracts
4 with consumers for the sale of living trusts and related estate planning products and services. The
5 sales representatives receive a commission from Family First for the sale of living trusts and
6 related estate planning products and services.

7 25. During the home visit, the sales representatives give consumers business cards that
8 include the name and logo for Family First, but identify the representative as a "Group Legal
9 Representative," with the word "Group" printed in a different font. If a consumer buys a trust or
10 trust update, the sales representative also includes in the sale a one-year membership in "Group
11 Legal Services," which the sales representatives state offers the consumers free legal services.

12 26. The sales representatives instruct consumers who purchase estate planning services
13 to pay by checks made payable to Group Legal Services. Pursuant to an arrangement with
14 Family First, apparently designed to give Defendants' unlawful scheme a cloak of legitimacy,
15 Group Legal Services then deducts a small preset fee which it keeps, forwards another preset fee
16 to defendant Thomas R. Lee, and forwards the remaining amount to Family First.

17 27. When marketing living trusts, trust updates, or other estate planning products and
18 services to consumers, Defendants do not disclose, or do not clearly disclose, to consumers that
19 they will subsequently be solicited to purchase annuities. In conformity with their training, the
20 sales representatives use techniques designed to create a relationship of trust and confidence
21 between themselves and the consumers. The sales representatives initially use that position of
22 trust to discover consumers' assets and to attempt to convince consumers to purchase a living
23 trust during the initial visit. The sales representatives direct consumers to sign several documents
24 which they do not explain or do not clearly explain to the consumers, and which contain
25 disclaimers and waivers that are inconsistent with the sales representatives' oral statements and
26 conduct. Additionally, even though the sales occur in consumers' homes, the sales
27 representatives do not give consumers legally required notices of their right to cancel the
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1 transactions.

2 28. A primary purpose of the sale of living trusts and related estate planning products
3 and services is to obtain information that Defendants will later use to sell American Investors and
4 other annuities to these consumers. However, Defendants instruct the sales representatives sent
5 by Family First not to discuss annuities during the initial sales presentation. Rather, Defendants
6 train sales representatives not to mention annuities until after the trusts and/or other estate
7 planning documents have been prepared, when, typically, different sales representatives, who are
8 appointed life insurance agents for American Investors, have returned to the consumers' homes
9 and are delivering the prepared documents. The sales representatives act in accordance with these
10 instructions.

11 29. After selling a living trust, trust update, or other related estate planning product or
12 service, sales representatives submit the information, including financial information, that they
13 obtained from purchasers to the Family First office. Family First provides copies of that
14 information to the office of Defendant Thomas R. Lee, where clerical workers paid by Defendant
15 Lee prepare the estate planning documents.

16 30. After Thomas R. Lee's employees generate the estate planning documents, Lee has
17 the documents sent to the offices of Family First. Family First then sends sales representatives,
18 who are appointed life insurance sales agents for American Investors, to the consumers' homes,
19 where they explain the legal effects of the estate planning documents, and supervise the execution
20 and witnessing of those legal documents, including wills, trusts, trust "updates" or "amendments,"
21 and powers of attorney. While explaining these legal documents and pursuant to their training,
22 the sales representatives again seek to foster the consumers' trust and confidence in them and
23 Family First. The sales representatives do not disclose, or do not clearly disclose, that a primary
24 purpose of this return visit to consumers' homes is to attempt to sell annuities.

25 31. The sales representatives deliver the living trust and related estate planning
26 documents in a binder that includes a cover letter signed by or on behalf of defendant Thomas R.
27 Lee, or another attorney, that creates the impression that the attorney who signed the letter is the
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1 consumer's attorney, and that an attorney-client relationship exists between the attorney and the
2 consumer. However, consumers never meet or communicate with defendant Thomas R. Lee, or
3 any other attorney, either before or during the sale of the living trust or related estate planning
4 product or service. Attorney contact, if any, occurs only after Family First receives payment and
5 obtains personal information from a consumer for use in the preparation of the living trust or
6 related estate planning product or service.

7 32. In accordance with their training, while explaining the estate planning documents
8 they are delivering and purporting to act as consumers' trusted advisors, sales representatives
9 advise consumers that a substantial portion of their assets (such as cash, stocks, bonds, IRA's and
10 certificates of deposit) should be moved to the annuities they offer. In doing so, and for
11 compensation (including but not limited to commissions earned through the sale of annuities), the
12 sales representatives regularly advise consumers to sell securities, in order to use the proceeds of
13 such sales to purchase the annuities the sales representatives are selling.

14 33. Further, and again pursuant to their training, the sales representatives emphasize
15 the claimed advantages of the annuities they sell and misrepresent or fail to tell consumers about
16 the limitations and potential disadvantages of purchasing the annuity policies. Generally, the
17 American Investors (and other) annuity policies that the sales representatives sell include a high,
18 long lasting "surrender" penalty provision, regardless of the age of annuitant at the time of
19 purchase.

20 34. If elderly purchasers of the annuities die during the lengthy time the surrender
21 penalty provision is in effect, the beneficiary often must pay surrender penalties in order to receive
22 payment of the benefit in a lump sum, or, to avoid such penalties, the beneficiary must accept
23 payment of the benefit over an extended term.

24 35. The sales representatives advise consumers to sell securities and use the proceeds
25 to purchase annuities without obtaining certificates from the Department of Corporations
26 authorizing them to act as investment advisers.

27 36. During the initial sales presentations and/or when the sales representatives deliver
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1 the completed estate planning documents, the sales representatives instruct consumers to sign
2 various documents that purport to disclose information or serve as a waiver or disclaimer of
3 consumers' rights and certain of Defendants' liabilities. The sales representatives either do not
4 explain or do not clearly explain, and seek to prevent consumers from learning the true effect of,
5 these documents and instead distract, mislead, rush, or otherwise dissuade consumers from
6 reading or otherwise seeking to learn the true terms of the documents. Among these documents
7 are waivers which purportedly allow Defendants to use the confidential information consumers
8 provided to facilitate production of the estate planning documents for the purpose of selling
9 annuities to those consumers, as well as statements purportedly relieving certain Defendants of
10 liability for preparing invalid trusts.

11 37. At all relevant times, Defendants Michaels and Owen, among other Defendants,
12 conducted, supervised, developed, and/or oversaw the training of the sales representatives who
13 sold annuities and living trusts and related estate planning products and services.

14 38. Defendants Thomas R. Lee, Senior Law Practice Group, and Doe Defendants 176
15 through 200, inclusive, actively participate in this scheme. They allow references to the
16 involvement of attorneys or an estate planning department to be used in the sales presentations,
17 provide forms for sales representatives to use in meetings with consumers, and provide consumers
18 with letters that give the impression that attorney(s) are representing consumers in connection
19 with the estate planning documents and services provided. Additionally, the attorneys do not
20 subsequently review whether the trust documents are properly executed or whether the trust is
21 properly funded, and instead allow sales representatives who are connected with Family First and
22 appointed life insurance agents of American Investors to explain and supervise the execution of
23 legal documents.

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27 **FIRST CAUSE OF ACTION BY THE ATTORNEY GENERAL**
28 **ON BEHALF OF THE PEOPLE AGAINST ALL DEFENDANTS:**

1 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE**
2 **SECTION 17500 (UNTRUE OR MISLEADING STATEMENTS)**

3 39. Plaintiff incorporates all paragraphs of this Complaint set forth above as though
4 they were set forth fully in this cause of action.

5 40. Defendants have violated and continue to violate Business and Professions Code
6 section 17500 by making or disseminating untrue or misleading statements, or causing untrue or
7 misleading statements to be made or disseminated in or from California, including to senior
8 citizens, with the intent to induce them to purchase living trusts, annuities and other goods and
9 services. These untrue or misleading statements include, but are not necessarily limited to, the
10 following:

11 A. Defendants represent that Family First and the sales representatives
12 who visit consumers in their homes are experts in estate planning. Among other
13 reasons, these statements are untrue or misleading because they are not attorneys
14 and have not been certified as specialists by the State Bar of California Board of
15 Legal Specialization in estate planning, trusts and probate.

16 B. Defendants represent that the purpose of the initial home visits is to
17 provide free information to consumers about living trusts and estate planning.
18 Among other reasons, these statements are untrue or misleading because the
19 primary purpose of the initial home visits with a consumer include establishing a
20 confidential relationship with that consumer and gaining information that will be
21 used to sell annuities to that consumer.

22 C. Defendants represent that consumers need to update or amend their
23 living trusts or other estate planning documents due to changes in the law. Among
24 other reasons, these statements are untrue or misleading because the telemarketers
25 and sales representatives have no basis to make that claim and are not qualified to
26 make that determination.

27 D. Defendants represent that attorneys who are experts in estate
28 planning will provide living trusts and related estate planning products and

1 services. Among other reasons, these statements are untrue or misleading, because
2 Defendants know or should know that attorneys do not initially determine the need
3 for the estate planning documents and services offered to a particular consumer;
4 the living trusts and trust updates are prepared by non-attorneys; attorneys do not
5 subsequently supervise or review whether the trust documents are properly
6 executed or whether the trust is properly funded; and Defendants Thomas R. Lee
7 and Does 176-200, inclusive, are not certified by the State Bar of California Board
8 of Legal Specialization in estate planning, trusts and probate.

9 E. Defendants represent that the annuity policies they offer provide
10 numerous advantages to prospective purchasers. Among other reasons, this
11 statement is untrue or misleading because Defendants fail to adequately disclose,
12 or to disclose at all, that the annuities they offer include substantial disadvantages.

13 F. Defendants represent that Family First has been in business since
14 1954. This statement is untrue or misleading because Family First did not start its
15 business until in or about 1997.

16 G. Defendants represent to consumers that, a year after a living trust
17 or living trust update is purchased, a representative of Family First will return to
18 the consumer's home to review the trust and confirm that the trust remains up to
19 date and accurate. Among other reasons, this statement is untrue or misleading
20 because a primary undisclosed reason for the return visit is to market additional
21 annuities to the consumers.

22 41. Defendants knew or by the exercise of reasonable care should have known that the
23 statements set forth above were untrue or misleading at the time the statements were made.

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26 **SECOND CAUSE OF ACTION BY THE ATTORNEY GENERAL**
27 **ON BEHALF OF THE PEOPLE AGAINST ALL DEFENDANTS:**
28 **VIOLATIONS OF SECTIONS 785(a) AND 787 OF THE INSURANCE CODE**

1 42. Plaintiff incorporates all paragraphs of this Complaint set forth above as though
2 they were set forth fully in this cause of action.

3 43. Defendants have violated and continue to violate provisions of the Insurance Code
4 regulating the sale of insurance to individuals aged 65 years or older by engaging in acts or
5 practices which include, but are not necessarily limited, to the following:

6 A. In violation of Insurance Code section 785(a), Defendants violate
7 the duty of honesty, good faith and fair dealing they owe to all actual and
8 prospective customers aged 65 years of age or older.

9 B. In violation of Insurance Code section 787, Defendants direct
10 advertisements and other lead-generating devices to persons aged 65 years of age
11 or older, and those advertisements and other lead-generating devices do not
12 prominently disclose that recipients may be contacted by an agent.

13 C. In violation of Insurance Code section 787, Defendants contact
14 persons aged 65 years of age or older as a result of acquiring the consumers'
15 names from advertisements or other lead generating devices and the American
16 Investors appointed life agents do not disclose that fact in their initial contact with
17 a consumer.

18 44. Defendants have violated sections 785(a) and 787 of the Insurance Code
19 knowingly and with sufficient frequency to indicate a general business practice.

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26 **THIRD CAUSE OF ACTION BY THE ATTORNEY GENERAL
ON BEHALF OF THE PEOPLE AGAINST ALL DEFENDANTS:**

27 **VIOLATIONS OF BUSINESS AND PROFESSIONS**
28 **CODE § 17200 (UNFAIR COMPETITION)**

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2 45. Plaintiff incorporates all paragraphs of this Complaint set forth above as though
3 they were set forth fully in this cause of action.

4 46. Defendants have committed and continue to commit unfair competition as defined
5 in Business and Professions Code section 17200 by engaging in acts or practices which include,
6 but are not necessarily limited, to the following:

7 A. Defendants engage in the conduct more specifically set forth in
8 paragraphs 21 through 38 of the complaint.

9 B. Defendants engage in the unauthorized practice of law in violation
10 of Business and Professions Code section 6125.

11 C. Defendants advertise or hold themselves out as practicing or
12 entitled to practice law, without being authorized to practice law, in violation of
13 Business and Professions Code section 6126(a).

14 D. Defendants engage in the practice of obtaining business for an
15 attorney, namely by “running and capping,” in violation of Business and
16 Professions Code section 6152(a).

17 E. Defendants create a fiduciary or confidential relationship with their
18 prospective and actual consumers, many of whom are senior citizens, but then fail
19 to act in conformity with such a relationship, by failing to act with the utmost good
20 faith for the benefit of the consumers.

21 F. Defendants enter into home solicitation contracts or make home
22 solicitation offers for group memberships and estate planning services without
23 complying with the requirements of Civil Code section 1689.5 et seq.

24 G. Defendants make untrue or misleading statements in violation of
25 Business and Professions Code section 17500 as alleged in the First Cause of
26 Action.

27 H. Defendants violate Insurance Code section 785 as alleged in the
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1 Second Cause of Action.

2 I. Defendants violate Insurance Code section 787 as alleged in the
3 Second Cause of Action.

4 J. Defendants violate Insurance Code section 10127.13 by selling annuity
5 products that contain a surrender charge, but not disclosing in bold 12-point type on the
6 cover page of the annuity policy, or on a sticker affixed to the cover page or policy jacket,
7 all terms of the surrender provision or all locations in the annuity policy where terms of
8 the surrender provisions are disclosed.

9 K. Defendants violate subdivision (a) of Corporations Code section 25230 by
10 acting as investment advisers without having first applied for and received a certificate
11 from the Commissioner of the Department of Corporations authorizing them to act as
12 investment advisers.

13 L. Defendants violate subdivision (d) of Corporations Code section 25235
14 because, while acting as investment advisers, they engage in acts, practices, or a course of
15 business which is fraudulent, deceptive, or manipulative, including but not limited to the
16 acts and practices described above.

17 **FOURTH CAUSE OF ACTION BY THE ATTORNEY GENERAL**
18 **ON BEHALF OF THE PEOPLE AGAINST DEFENDANTS**
19 **THOMAS R. LEE, SENIOR LAW PRACTICE GROUP,**
20 **AND DOES 176 TO 200, INCLUSIVE:**

21 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE**
22 **SECTION 17200 (UNFAIR COMPETITION)**

23 47. Plaintiff incorporates all paragraphs of this Complaint set forth above as though
24 they were set forth fully in this cause of action.

25 48. Defendants Thomas R. Lee, Senior Law Practice Group, and Does 176-200,
26 inclusive, (the "Attorney Defendants") have engaged in and continue to engage in unfair
27 competition as defined in Business and Professions Code section 17200 by engaging in acts and
28 practices which include, but are not necessarily limited to, the following:

1 A. The Attorney Defendants purport to accept representation of clients
2 in matters where interests of clients actually or potentially conflict, without
3 obtaining the informed written consent of all clients, as required by Rule 3-310 of
4 the Rules of Professional Conduct, because they purport to represent husbands
5 and wives in the sale of living trust packages without ascertaining whether the
6 interests of the husbands and wives may conflict.

7 B. The Attorney Defendants violate the attorney-client privilege by
8 permitting the disclosure of confidential attorney-client communications to third
9 parties without obtaining the required knowing and informed consent from their
10 clients.

11 C. The Attorney Defendants violate the fiduciary duty and duties of
12 good faith and fair dealing owed to consumers for whom they prepare trusts by
13 inducing consumers to sign a notice by which consumers purportedly release
14 certain defendants “for any claims arising from an invalid Trust, Will or Power of
15 Attorney.”

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17 **FIFTH CAUSE OF ACTION BY THE COMMISSIONER OF INSURANCE**
18 **ON BEHALF OF THE PEOPLE AGAINST DEFENDANTS FAMILY FIRST**
19 **ADVANCED ESTATE PLANNING; FAMILY FIRST INSURANCE SERVICES;**
20 **AMERICAN INVESTORS LIFE INSURANCE COMPANY, INC.;**
21 **NICK A. MICHAELS; JOHN OWEN; AND DOES 1 TO 150 AND 176-185, INCLUSIVE:**

22 **VIOLATIONS OF THE INSURANCE CODE**

23 49. Plaintiff incorporates all paragraphs of this Complaint set forth above as though
24 they were set forth fully in this cause of action.

25 50. The allegations contained in this Cause of Action are brought pursuant to
26 Insurance Code section 12928.6.

27 51. The Defendants named in this cause of action have violated and continue to violate
28 the Insurance Code by engaging in conduct including, but not necessarily limited to, the
 following:

1 A. In violation of Insurance Code section 780, the Defendants named
2 in this cause of action misrepresent, or cause or permit misrepresentations to be
3 issued, circulated or used regarding the terms of the annuity policies they sell
4 through Family First.

5 B. In violation of Insurance Code section 781, the Defendants named
6 in this cause of action make misrepresentations for the purpose of inducing, or
7 tending to induce, consumers to purchase the annuities.

8 C. In violation of Insurance Code section 785(a), the Defendants
9 named in this cause of action violate the duty of honesty, good faith and fair
10 dealing they owe to all actual and prospective customers aged 65 years of age or
11 older.

12 D. In violation of Insurance Code section 787, Defendants named in
13 this cause of action direct advertisements and other lead-generating devices to
14 persons aged 65 years of age or older, and those advertisements and other lead-
15 generating devices do not prominently disclose that recipients may be contacted by
16 an agent.

17 E. In violation of Insurance Code section 787, Defendants named in
18 this cause of action contact persons aged 65 years of age or older as a result of
19 acquiring the consumers' names from advertisements or other lead generating
20 devices and the American Investors appointed life agents do not disclose that fact
21 in their initial contact with a consumer.

22 52. The Defendants named in this cause of action have committed and continue to
23 commit unfair practices as defined in the Insurance Code, which include, but are not necessarily
24 limited, to the following:

25 A. In violation of Insurance Code section 790.02, by engaging in the
26 conduct more specifically alleged in this Complaint, the Defendants named in this
27 cause of action engage in trade practices which constitute an unfair method of
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1 competition or an unfair or deceptive act or practice in the business of insurance.

2 B. In violation of Insurance Code section 790.03(a), by engaging in
3 the conduct more specifically alleged in this Complaint, the Defendants named in
4 this cause of action make, issue, circulate, or cause to be made, issued or
5 circulated, estimates, illustrations, circulars or statements misrepresenting the
6 terms of annuity policies issued or to be issued or the benefits or advantages
7 promised under the terms of the annuity policies.

8 C. In violation of Insurance Code section 790.03(b), by engaging in
9 the conduct more specifically alleged in this Complaint, the Defendants named in
10 this cause of action make, disseminate or cause to be made or disseminated
11 statements containing assertions, representations or statements with respect to the
12 business of insurance or with respect to any person in the conduct of his or her
13 insurance business, which are untrue, deceptive, or misleading, and which are
14 known, or which by the exercise of reasonable care should be known to be untrue,
15 deceptive, or misleading.

16 53. In violation of Insurance Code section 10127.13, the Defendants named in this
17 cause of action sell annuity products that contain a surrender charge, but do not disclose in bold
18 12-point type on the cover page of the annuity policy, or on a sticker affixed to the cover page or
19 policy jacket, all terms of the surrender provision or all locations in the annuity policy where terms
20 of the surrender provisions are disclosed.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays that:

23 1. As to the First Cause of Action and pursuant to Business and Professions Code
24 section 17535, that all Defendants, their successors, agents, assigns, representatives, employees,
25 and all persons who act in concert with them be permanently enjoined from making or
26 disseminating, or causing to be made or disseminated, any untrue or misleading statements in
27 violation of Business and Professions Codes section 17500, including, but not limited to, the
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1 untrue or misleading statements alleged in the First Cause of Action.

2 2. As to the First Cause of Action and pursuant to Business and Professions Code
3 section 17536, the Court assess a civil penalty of two thousand five hundred dollars (\$2,500)
4 against each defendant for each violation of Business and Professions Code section 17500 alleged
5 in the First Cause of Action, as proved at trial, but in an amount of no less than fifteen million
6 dollars (\$15,000,000) against each Defendant.

7 3. As to the Second Cause of Action and pursuant to Insurance Code sections 789(e)
8 and 789.3(b), the Court assess a civil penalty of twenty-five thousand dollars (\$25,000) against
9 each Defendant, except for Defendants American Investors Life Insurance Company, and Does
10 151-175, for each violation of Insurance Code sections 785(a) and 787 that occurred before
11 January 1, 2004, and a civil penalty of fifty thousand dollars (\$50,000) against each Defendant,
12 except for Defendants American Investors Life Insurance Company and Does 151-175, for each
13 violation of Insurance Code sections 785(a) and 787 that occurred on or after January 1, 2004, as
14 proved a trial.

15 4. As to the Second Cause of Action and pursuant to Insurance Code section 789(e),
16 section 789.3(d) as it read prior to January 1, 2004, and section 789.3(e) as it has read since
17 January 1, 2004, the Court assess a civil penalty of one hundred thousand dollars (\$100,000)
18 against Defendants American Investors Life Insurance Company, and Does 151 to 175, inclusive,
19 for each violation of Insurance Code sections 785(a) and 787 that occurred before January 1,
20 2004 and a civil penalty of three hundred thousand dollars (\$300,000) against Defendants
21 American Investors Life Insurance Company, and Does 151 to 175, inclusive, for each violation
22 of Insurance Code sections 785(a) and 787 that occurred on or after January 1, 2004, as proved
23 at trial.

24 5. As to the Second Cause of Action, that this Court grant all relief provided for
25 under sections 789 and 789.3 of the Insurance Code for Defendants' violations of sections of 785
26 and 787 of the Insurance Code proved at trial, including but not limited to damages in an amount
27 proven at trial but in an amount of no less than Seventy Million Dollars (\$70,000,000), restitution
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1 in an amount proven at trial but in an amount of no less than Seventy Million Dollars
2 (\$70,000,000), and an injunction barring Defendants from engaging in any unlawful conduct,
3 including but not limited to the unlawful conduct alleged in the Second Cause of Action.

4 6. As to the Second Cause of Action and pursuant to Insurance Code section 789,
5 that plaintiff be awarded attorney's fees.

6 7. As to the Third and Fourth causes of action and pursuant to Business and
7 Professions Code section 17203, that all Defendants and their successors, agents, assigns,
8 representatives, employees and all persons who act in concert with them be permanently enjoined
9 from engaging in unfair competition as defined in Business and Professions Code section 17200,
10 including but not limited to, the types of acts or practices alleged in the Third and Fourth Causes
11 of Action.

12 8. As to the Third and Fourth Causes of Action and pursuant to Business and
13 Professions Code Section 17206, the Court assess a civil penalty of two thousand five hundred
14 dollars (\$2,500) against each Defendant for each violation of Business and Professions Code
15 section 17200 alleged in the Third and Fourth Causes of Action, as proved at trial, but in an
16 amount of no less than fifteen million dollars (\$15,000,000) against each Defendant.

17 9. As to the Third and Fourth Causes of Action and pursuant to Business and
18 Professions Code Section 17206.1, the Court assess a civil penalty of two thousand five hundred
19 dollars (\$2,500) against each Defendant for each violation of Business and Professions Code
20 section 17200 alleged in the Third and Fourth Causes of Action, as proved at trial, but in an
21 amount of no less than ten million dollars (\$10,000,000) against each Defendant.

22 10. As to the First, Second, Third and Fourth causes of action, that Defendants be
23 ordered to make restitution of any money or other property that may have been acquired by
24 Defendants' violations of Business and Professions Code sections 17200 and 17500 and violations
25 of Insurance Code sections 785 and 787, in an amount of no less than seventy million dollars
26 (\$70,000,000).

27 11. As to the Fifth Cause of Action and pursuant to Insurance Code section 12928.6,
28

1 that all Defendants and their successors, agents, assigns, representatives, employees and all
2 persons who act in concert with them be permanently enjoined from engaging in any acts or
3 practices in violation of any provision of the Insurance Code, including but not limited to, the
4 types of acts or practices alleged in the Fifth Cause of Action.

5 12. The Court order each of the remedies provided in Section 6126.5 of the Business
6 and Professions Code for each act of Defendants that constituted a violation of Section 6125 of
7 the Business and Professions Code, as alleged in the Third Cause of Action and proved at trial,
8 including but not limited to:

- 9 (a) Actual damages in an amount proven at trial, but in an amount of no less than
10 Seventy Million Dollars (\$70,000,000).
- 11 (b) Restitution of all amounts paid by consumers to Defendants, in an amount proven
12 at trial, but in an amount of no less than Seventy Million Dollars (\$70,000,000).
- 13 (c) The return to consumers of the amount of all penalties and tax liabilities consumers
14 incurred in connection with the sale or transfer of assets to pay for any goods,
15 services, or property sold by Defendants.
- 16 (d) The payment of reasonable attorney's fees and costs that consumers may expend
17 to rectify errors made by Defendants in their unlawful practice of law.
- 18 (e) Prejudgment interest at the legal rate from each consumer's date(s) of loss to the
19 date of judgment.
- 20 (f) Appropriate equitable relief, including the rescission of all sales made in connection
21 with a violation of law, including but not limited to the sales of annuities and estate
22 planning documents and services.

23 13. Pursuant to subdivision (a)(4) of Business and Professions Code section 6126.5,
24 that plaintiff be awarded attorney's fees.

25 14. Plaintiff be awarded its costs of suit.

26 15. The Court order other and further relief as the nature of the case may require and
27 the court deems appropriate and just.

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1 DATED: February 10, 2005

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