

ORIGINAL

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8 Attorneys for Plaintiffs and the Class

FILED
Superior Court of California
County of Los Angeles

NOV 17 2017

Sherri R. Carter, Executive Officer/Clerk
By Nancy Alvarez Deputy

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

12 **BC 6 8 4 0 6 1**

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13 SIMON LEVAY, JUDITH MILLER and LIONEL)
BROWN, Individually and on Behalf of all Others)
14 Similarly Situated,)

15 Plaintiffs,)

16 v.)

17 AARP, INC., AARP SERVICES, INC.,)
UNITEDHEALTH GROUP, INC.,)
18 UNITEDHEALTHCARE INSURANCE)
COMPANY, and DOES 1 through 60, inclusive,)

19 Defendants.)
20 _____)

CASE NO.:

CLASS ACTION COMPLAINT FOR DAMAGES FOR:

- 1. VIOLATION OF CALIFORNIA INSURANCE CODE § 785;
- 2. VIOLATION OF CALIFORNIA INSURANCE CODE § 787;
- 3. NEGLIGENCE;
- 4. VIOLATION OF CAL. BUS. & PROF. CODE § 17200;
- 5. VIOLATION OF CAL. BUS. & PROF. CODE § 17500;
- 6. ELDER FINANCIAL ABUSE

REQUEST FOR INJUNCTIVE RELIEF

DEMAND FOR JURY TRIAL

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BY FAX

CITY/CASE: BC684061
LEA/DEF#:

RECEIPT #: CCH451233045

DATE PAID: 11/17/17 11:33 AM

PAYMENT: \$1,435.00 310

RECEIVED:

CHECK:	\$1,435.00
CASH:	\$0.00
CHANGE:	\$0.00
CARD:	\$0.00

11/17/2017

Handwritten signature: Jones

1 Plaintiffs SIMON LEVAY, JUDITH MILLER and LIONEL BROWN, by and through their
2 attorneys, bring this action on behalf of himself and all others similarly situated, and alleges the
3 following upon information and belief:

4 **PRELIMINARY ALLEGATIONS**

5 1. Plaintiffs SIMON LEVAY, JUDITH MILLER and LIONEL BROWN (hereinafter
6 "Plaintiffs"), are individuals born on 08/28/1943, 03/23/1940 and 02/02/1937, respectively, and were
7 older than 65 years of age at all relevant times herein.

8 2. Plaintiffs were residents of the State of California, County of Los Angeles County, at
9 all relevant times herein.

10 3. Plaintiffs were informed and believe, and upon such information and belief alleges that
11 Defendant AARP, Inc. is a non-profit corporation organized under the laws of the District of
12 Columbia and maintains its primary place of business at 601 E Street, NW, Washington, D.C. 20049.
13 AARP, Inc. conducts substantial business in the State of California.

14 4. Defendant AARP Services, Inc. ("ASI") is a wholly-owned subsidiary of AARP,
15 organized under the laws of Delaware. ASI maintains its primary place of business at 601 E Street,
16 NW, Washington, D.C. 20049. ASI conducts substantial business in the State of California. ASI, and
17 its subsidiaries, is AARP's taxable "for-profit" division that negotiates, oversees, and manages
18 lucrative contracts with AARP's insurance business partners. AARP created ASI in 1999 pursuant to
19 a settlement agreement with the U.S. Internal Revenue Service ("IRS") resulting from an investigation
20 by the IRS into the large amount of income that AARP, Inc., a "non-profit" tax-exempt organization,
21 earned through its "endorsement" deals. This settlement was one of several that AARP, Inc. entered
22 into with the IRS and other entities, such as the U.S. Postal Service and the tax authorities of the
23 District of Columbia, all relating to AARP, Inc.'s failure to fully pay unrelated business income tax
24 on its commercial activities, as well as improperly mailing health insurance solicitations at non-profit
25 rates.

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1 5. Defendant UnitedHealth Group, Inc. ("UnitedHealth Group") is an insurance
2 corporation organized under the laws of the State of Minnesota and maintains its corporate
3 headquarters in Minnetonka, Minnesota. UnitedHealth Group conducts substantial business in the
4 State of California. UnitedHealth Group is the largest single health insurer in the United States.

5 6. Defendant UnitedHealthcare Insurance Company is an operating division and wholly
6 owned subsidiary of UnitedHealth Group and maintains its corporate headquarters in Hartford,
7 Connecticut. UnitedHealthcare Insurance Company conducts substantial business in the State of
8 California. AARP branded insurance policies are insured by UnitedHealthcare Insurance Company.

9 7. Defendants UnitedHealth Group and UnitedHealthcare Insurance Company are
10 collectively referred to herein as "UnitedHealth."

11 8. The true names and capacities of Defendants sued as DOES 1 through 60, inclusive,
12 are presently unknown to Plaintiffs. Plaintiffs are informed and believe and thereon allege that each
13 such DOES 1 through 60 are in some way responsible and liable for the events or happenings alleged
14 in this Complaint. Plaintiffs will amend this Complaint to allege their true names and capacities when
15 ascertained.

16 9. Plaintiffs are informed and believe and thereon allege that at all times material herein
17 each Defendant, was either the true defendant, agent, contractor, employee, alter-ego, subsidiary or
18 partner, of each other Defendant and in doing the things alleged herein, was acting within the scope
19 and purpose of such agency and/or affiliated entity with the permission and consent of, and their
20 actions were ratified by, the other Defendants.

21 10. Plaintiffs are informed and believe and thereon allege that these defendants operated
22 in such a way as to make their individual identities indistinguishable, and are, therefore, the mere
23 alter-egos of one another. The conduct was done in concert with each other defendant and pursuant
24 to a common design and agreement, with a common purpose and community of interest, with an equal
25 right of control, to accomplish a particular result, namely, benefitting financially from the advertising,
26 offer, and sale of insurance products and services to to vulnerable and unsophisticated elders, like
27 Plaintiffs. Defendants aided and abetted each other in accomplishing the acts and omissions alleged
28 herein and operated a joint enterprise or joint venture, subjecting each of them to liability for the acts

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and omissions of each other.

11. All of the Defendants’ conduct, as alleged herein, was carried out by a managing agent, and/or by an officer and/or director of defendants. A managing agent, officer, and/or director of defendants had advance knowledge of the unfitness of its decision-makers and employed them with a conscious disregard of the rights and safety of their clients, including plaintiffs, and authorized their conduct in advance, and ratified their conduct after it occurred.

12. Defendants are authorized to conduct business in the State of California and have intentionally availed themselves of the laws and markets within this State through the promotion, marketing, distribution, and sale of AARP branded supplemental insurance policies

13. Venue is proper in Los Angeles County under Code of Civil Procedure § 395 and § 395.5 based on the facts, without limitation, that: this is an action arising from Defendants’ offer and sale of insurance products and/or services in Los Angeles County to a resident of Los Angeles County, all of which services and products were to be provided or performed and delivered within Los Angeles County, and thus, Los Angeles County is the county where Defendants’ liability arose.

NATURE OF THE ACTION

14. This is a consumer class action on behalf of a class of California residents 65 years or older, whom, by the unlawful acts alleged herein, were deceived into becoming AARP members and paying a membership fee to AARP to be eligible for UnitedHealth’s Medicare supplemental health insurance products and services through the improper, deceptive, and misleading marketing, advertising, offers and sale of insurance by AARP and UnitedHealth.

15. Defendant AARP, Inc., formerly known as the American Association of Retired Persons, in a tax-exempt, “non-profit” membership organization for seniors aged 50 years and older.

16. AARP has long been regarded as a protector and advocate of the nation’s senior community. AARP has over 40 million members whom trust the AARP brand, and all potential or “soon-to-be” AARP members recognize the AARP logo. AARP ranks third as a “trusted large advocacy group influencing U.S. Politics” after Consumer Reports and the Red Cross.

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17. Despite its “non-profit” status, AARP receives hundreds of millions of dollars through business partnerships with large insurance companies such as defendants UnitedHealth Group, Inc. and UnitedHealthcare Insurance Company (collectively, “UnitedHealth”) in the form of “royalties”, which are actually commissions in disguise to avoid obtaining an insurance license and to avoid paying taxes on the income.

18. As alleged herein, AARP and UnitedHealth, together, have orchestrated an elaborate scheme where AARP markets, advertises, endorses, solicits, offers and sells AARP branded insurance policies on behalf of UnitedHealth, and also collects and remits insurance premiums and generally administers the AARP branded insurance policies for UnitedHealth, in exchange for a 4.95% “royalty” from each new policy or renewal. This “royalty”, previously labeled as a commission until AARP was caught, is a legal fiction for UnitedHealth’s use of AARP’s intellectual property that ultimately forces seniors to pay AARP a premium for the insurance policy in addition to their membership fees to be eligible for the insurance.

19. In sum, Defendants have deceptively and unlawfully schemed against senior citizens who put their trust in the AARP name which has been sold out to the insurance companies for profit and used to advertise, offer, and sell insurance policies in direct violation of California law for a monetary benefit.

20. As a result of Defendants’ actions, individuals 65 years or older are duped into joining AARP and paying a membership fee to AARP in order to receive the only AARP-branded insurance services and products UnitedHealth provides at a cost higher than its competitors and for less coverage in light of deceptive, improper, and illegal advertisements which display the AARP name, brand, and logo that the public believed they could trust. This action is brought to recover damages, restitution and seek injunctive relief.

PRELIMINARY ALLEGATIONS

21. AARP, formerly known as the American Association of Retired Persons, is a tax-exempt, non-profit membership organization for seniors over 50 years of age. AARP is reported to have over 40 million members, half of which are 65 years or older.

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22. Despite its “non-profit” status, AARP earns three-quarters of a billion dollars through business partnerships with large insurance companies like UnitedHealth to sell AARP branded insurance policies for Medigap, Medicare Advantage, and Part D prescription drugs.

23. AARP Medigap is the dominant player in the Medigap market. Nationwide, AARP Medigap has over three times as many Medigap enrollees as its closest competitor.

24. The only Medigap plans insured by UnitedHealth are the AARP Medigap plans. This means any consumer that wants to purchase Medigap coverage from UnitedHealth, the largest health insurer in the country, must purchase the AARP Medigap plan, thereby requiring paying AARP a membership fee and 4.95% of the insurance policy payment. AARP is paid hundreds of millions of dollars, tax-free, as “royalties”.

25. In 1997, AARP and UnitedHealth entered into the “AARP Health Insurance Agreement” where AARP would market the policies and UnitedHealth would administer them. In 2007, this agreement was expanded to allow UnitedHealth to use the AARP brand on the Medicare Supplement products and services. This contract has been extended to run through December 2020.

26. Defendants actively advertise, solicit, market, offer, and sell AARP branded insurance through the internet, television commercials, radio, and publications using the trusted and recognized AARP logo and name:

a. On Defendants’ web pages:



*AARP endorses the AARP Medicare Supplement Insurance Plans, insured by UnitedHealthcare Insurance Company. UnitedHealthcare Insurance Company pays royalty fees to AARP for the use of its intellectual property. These fees are used for the general purposes of AARP. AARP and its affiliates are not insurers.

You must be an AARP member to enroll in an AARP Medicare Supplement Plan.

This is a solicitation of insurance. A licensed insurance agent/producer may contact you.

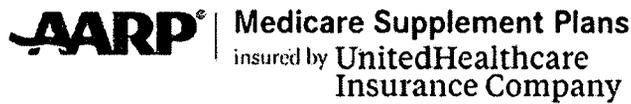
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Why choose an AARP Medicare Supplement Plan, insured by UnitedHealthcare?

- With over 30 years of experience, UnitedHealthcare has the expertise and commitment to help you make informed decisions about your health insurance.
- These plans are the only Medicare supplement insurance plans that carry the AARP name.*
- There are a range of plans available to fit your needs and budget.
- You could join the millions of AARP members who are already enrolled in these plans.**

Eligible for Medicare? Now may be a good time to consider a Medicare supplement insurance plan to help cover some of the out-of-pocket medical costs Medicare doesn't pay. And when you choose an AARP® Medicare Supplement Insurance Plan, insured by UnitedHealthcare Insurance Company (UnitedHealthcare) count on having the only Medicare Supplement plan endorsed by AARP.*



AARP Medicare Supplement Insurance Plans



Call UnitedHealthcare 1-866-295-8664* (TTY 711)

[View Plan Rates](#) **OR** [Get a Free Decision Guide](#)

AARP Medicare Supplement Insurance Plans

Already an AARP Medicare Supplement Plan holder? [Member Sign In](#)

[Your Medicare Checklist](#)

[Learn About Medicare](#)

[Medicare Supplement and You](#)

[Help and Resources](#)

[Find a Plan](#)



Why Choose An AARP Medicare Supplement Insurance Plan?

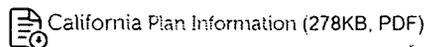
By enrolling in an AARP Medicare Supplement Insurance Plan, you could join the millions** of AARP members who are already enrolled in these plans. Not to mention, 96% of plan members surveyed are satisfied with their plan.† Like all standardized Medicare supplement insurance plans, AARP Medicare Supplement Insurance Plans feature a variety of coverage options that:

- Let you choose or keep any doctor who accepts Medicare patients.
- Help cover some of the medical expenses not paid by Medicare Parts A & B.
- Require no referrals to see a specialist who accepts Medicare patients.

Medicare supplement insurance companies in most states can only sell you a "standardized" Medicare supplement plan identified by a letter (e.g. Plan A). Each standardized Medicare supplement plan must offer the same basic benefits, no matter which insurance company sells it.

To view rate information and compare plan costs, simply enter your zip code then click the button below.

Download the following PDF to view information about the Medicare supplement plans available in California ([change location](#)):





Important Disclosures

Already a Plan Member? ▾

Home Our Plans ▾ Medicare Education ▾

Home / Our Plans / Medicare Supplement Insurance Plans

AARP® Medicare Supplement Insurance Plans
Insured by UnitedHealthcare Insurance Company*



Questions

Call toll-free
1-888-378-0849 (TTY 711)
7 am-11 pm ET, Monday-Friday
9 am-5 pm ET, Saturday

Find an AARP Medicare Supplement Insurance Plan that could be the right fit for you.

Over the years, you've learned what's best for you. That's why it's good that there are a variety of AARP® Medicare Supplement Insurance Plans insured by UnitedHealthcare Insurance Company available. With several plans to choose from, you could select one that's just right for your needs. It's time to find an AARP Medicare Supplement Plan that could go the distance with you.

AARP endorses the AARP® Medicare Supplement Insurance Plans, insured by UnitedHealthcare Insurance Company (UnitedHealthcare Insurance Company of New York, Islandia, NY); UnitedHealthcare Insurance Company pays royalty fees to AARP for the use of its intellectual property. These fees are used for the general purposes of AARP. AARP and its affiliates are not insurers.

AARP does not employ or endorse agents, brokers or producers.

Insured by UnitedHealthcare Insurance Company, Horsham, PA (UnitedHealthcare Insurance Company of New York, Islandia, NY for New York residents). Policy form No. GRP 79171 GPS-1 (G-36000-4). In some states plans may be available to persons under age 65 who are eligible for Medicare by reason of disability or End-Stage Renal Disease.

You must be an AARP member to enroll in an AARP Medicare Supplement Plan.

Not connected with or endorsed by the U.S. Government or the federal Medicare program.

This is a solicitation of insurance. A licensed insurance agent/producer may contact you.

b. Television commercials:



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AARP Medicare Supplement Plans
Insured by UnitedHealthcare Insurance Company

MEMBERSHIP ID 0000000000-00

YOUR NAME HERE

1-800-470-2600
Call Now for Free Guide

AARP Medicare Supplement Plans
Insured by UnitedHealthcare Insurance Company

AARP Medicare Complete
Insured through UnitedHealthcare

I DESERVE The best of my plan

I DESERVE Help when I need it

EnrollUHC.com
1-800-748-6421

UnitedHealthcare
Medicare Solutions

The only plan of its kind endorsed by AARP

AARP Medicare Supplement Plans
Insured by UnitedHealthcare Insurance Company

MEMBERSHIP ID 0000000000-00

YOUR NAME HERE

1-800-745-3131 Call now for Free Guide
GoLong.com

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AARP | MedicareComplete[®]
insured through UnitedHealthcare

LOW

Monthly Premium

You must continue to pay your Medicare Part B premium

ON MEDICARE CALL NOW TTY: 711
1-800-791-9019  **UnitedHealthcare**
Medicare Solutions

c. In publications:

Approaching Medicare Eligibility?

Consider Medicare supplement insurance.

Did you know that Medicare only covers about 60% of Part B medical costs? That means the rest is up to you. But a standardized Medicare supplement insurance plan could help you save in out-of-pocket medical costs.

Call UnitedHealthcare Insurance Company to learn more.
As the insurer of the AARP[®] Medicare Supplement Plans, UnitedHealthcare Insurance Company offers a range of these plans to fit your needs and budget. And these plans are the only Medicare supplement plans endorsed by AARP.*

Call UnitedHealthcare today
1-888-647-3025
PROMO CODE, 4CZ, TTY 711 or mail the attached card

Why choose a Medicare supplement plan?

- Choose any doctor who accepts Medicare patients
- No claims forms to fill out
- Your plan goes with you wherever you travel nationwide
- No network restrictions

AARP | Medicare Supplement Plans
insured by UnitedHealthcare Insurance Company

*AARP endorses the AARP Medicare Supplement Insurance Plans, insured by UnitedHealthcare Insurance Company. UnitedHealthcare Insurance Company pays royalty fees to AARP for the use of its intellectual property. These fees are used for the general purposes of AARP. AARP and its affiliates are not insurers.
Insured by UnitedHealthcare Insurance Company, Horsham, PA (UnitedHealthcare Insurance Company of New York, Islandia, NY for New York residents). Policy form No. GRP79171 GPS-1 (G-36000-4).

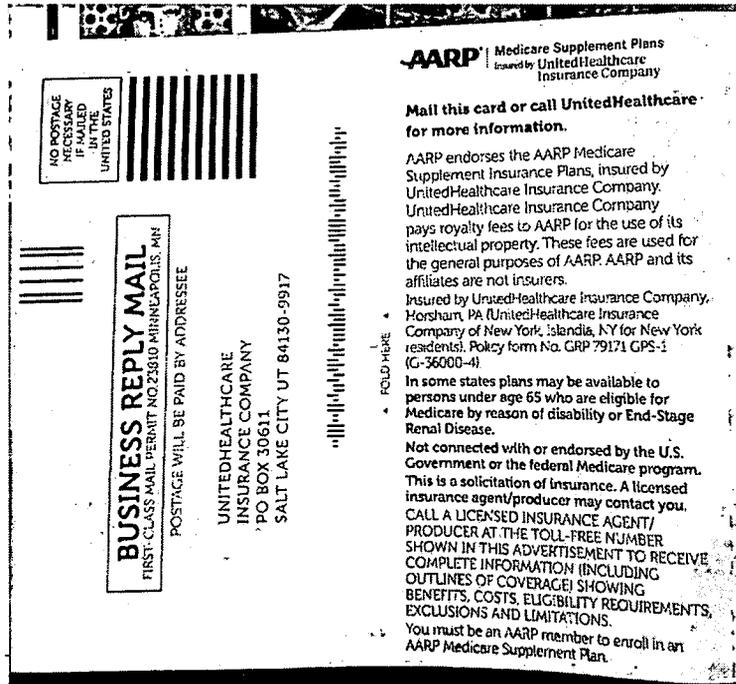
**In some states plans may be available to persons under age 65 who are eligible for Medicare by reason of disability or End-Stage Renal Disease. Not connected with or endorsed by the U.S. Government or the federal Medicare program. This is a solicitation of insurance. A licensed insurance agent/producer may contact you. THESE PLANS HAVE ELIGIBILITY REQUIREMENTS, EXCLUSIONS AND LIMITATIONS, FOR COSTS AND COMPLETE DETAILS (INCLUDING OUTLINES OF COVERAGE) CALL A LICENSED INSURANCE AGENT/PRODUCER AT THE TOLL-FREE NUMBER SHOWN.
You must be an AARP member to enroll in an AARP Medicare Supplement Plan**

AS2983ST (12-15) AARPMedicareSupplement.com RSN

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27. California law specifically forbids advertisements directed at persons 65 years or older for insurance to include the name or logo of any non-profit organization or senior organization.

28. For every AARP branded insurance policy sold/renewed, AARP collects insureds' premium payments, plus the 4.95% commission on behalf of UnitedHealth. The 4.95% commission amount paid to AARP is bifurcated, with 8% going to ASI and 92% going to AARP, Inc. AARP then invests the insurance premiums that it collects for UnitedHealth in a wide range of securities. As premium payments become due, AARP remits the premiums to UnitedHealth.

29. The end result is that Defendants illegally advertise for insurance services and products in order to obtain an illegal monetary benefit.

30. But for Defendants' deceptive and unlawful acts, Plaintiffs and the Class would not have been required to join AARP to obtain the advertised insurance, would not have had to pay the AARP membership fees, would not have had to pay AARP the illegal commission as part of their purchase and/or renewal of their AARP policies, and would not of had to pay the high rates for the AARP branded insurance when competing policies offering identical benefits are offered at a lower cost.

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CLASS ALLEGATIONS

31. Plaintiffs bring this action individually and on behalf of the following Class: All persons in the State of California who are 65 years or older and who purchased, renewed and/or been offered an AARP branded insurance policy.

32. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Class may be expanded or narrowed by amendment or amended complaint.

33. Specifically excluded from the Class are Defendants, Defendants' officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, employees, principals, servants, partners, joint venturers, or entities controlled by Defendants, and their heirs, successors, assigns, or other persons or entities related to or affiliated with Defendants and/or Defendants' officers and/or directors, the judge assigned to this action, and any member of the judge's immediate family.

34. *Numerosity.* The members of the Class are geographically dispersed throughout the State of California and are so numerous that individual joinder is impracticable. Upon information and belief, Plaintiffs reasonably estimates that there are hundreds of thousands of members in the Class. Although the precise number of Class members is unknown to Plaintiffs, the true number of Class members is known by Defendants. More specifically, Defendants maintain databases that contain the following information: (i) the name of each Class member enrolled in an AARP branded insurance policy; (ii) the address of each Class member; and (iii) each Class member's payment information related to AARP branded insurance policies. Thus, Class members may be identified and notified of the pendency of this action by first class mail, electronic mail, and/or published notice, as is customarily done in consumer class actions.

35. *Existence and predominance of common questions of law and fact.* Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting only individual Class members. These common legal and factual questions include, but are not limited to, the following:

(a) whether Defendants advertised, solicited, marketed, offered, and sold AARP branded insurance policies in violation of California Insurance Code Section 787;

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1 (b) whether Defendants breached their duty of honesty, good faith, and fair dealing in
2 violation of California Insurance Code Section 785;

3 (c) whether Defendants' actions detailed above constitute an unfair, deceptive, and
4 misleading practices in violation of the Business and Professions Code Section 17200.

5 (d) whether Plaintiffs and the Class have sustained monetary loss and the proper
6 measure of that loss;

7 (e) whether Plaintiffs and Class are entitled to injunctive relief; and

8 (f) whether Plaintiffs and the Class are entitled to restitution and disgorgement from
9 Defendants.

10 36. *Typicality.* Plaintiffs' claims are typical of the claims of the other members of the Class
11 in that Defendants deceived Plaintiffs in the very same manner as they deceived each member of the
12 Class.

13 37. *Adequacy of Representation.* Plaintiffs will fairly and adequately protect the interests
14 of the Class. Plaintiffs have retained counsel that is highly experienced in complex consumer class
15 action litigation, and Plaintiffs intend to vigorously prosecute this action on behalf of the Class.
16 Furthermore, Plaintiffs have no interests that are antagonistic to those of the Class.

17 38. *Superiority.* A class action is superior to all other available means for the fair and
18 efficient adjudication of this controversy. The damages or other financial detriment suffered by
19 individual Class members is relatively small compared to the burden and expense of individual
20 litigation of their claims against Defendants. It would, thus, be virtually impossible for the Class, on
21 an individual basis, to obtain effective redress for the wrongs committed against them. Furthermore,
22 even if Class members could afford such individualized litigation, the court system could not.
23 Individualized litigation would create the danger of inconsistent or contradictory judgments arising
24 from the same set of facts. Individualized litigation would also increase the delay and expense to all
25 parties and the court system from the issues raised by this action. By contrast, the class action device
26 provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and
27 comprehensive supervision by a single court, and presents no unusual management difficulties under
28 the circumstances.

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39. In the alternative, the Class may also be certified because:

(a) the prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudication with respect to individual Class members that would establish incompatible standards of conduct for the Defendants;

(b) the prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests; and/or

(c) Defendants have acted or refused to act on grounds generally applicable to the Class as a whole, thereby making appropriate final declaratory and or injunctive relief with respect to the members of the Class as a whole.

FIRST CAUSE OF ACTION

(Violation of California Insurance Code § 785)

40. Plaintiffs repeats, re-alleges, and incorporates by this reference as though set forth in full herein all prior paragraphs.

41. California Insurance Code § 785 sets forth that “[a]ll insurers, brokers, agents, and others engaged in the transaction of insurance owe a prospective insured who is 65 years of age or older, a duty of honesty, good faith, and fair dealing.”

42. UnitedHealth is an insurer, in fact the nations’ largest insurer, that owes persons over 65 years of age a duty of honesty, good faith, and fair dealing.

43. AARP is engaged in the transaction of insurance and owes persons over 65 years of age a duty of honesty, good faith, and fair dealing. AARP is engaged in the transaction of insurance through advertising, soliciting, and marketing insurance, as well as collecting insurance payments and receiving commissions therefrom.

44. Plaintiffs and the Class are prospective insureds who are at least 65 years of age and have seen and/or heard offers of insurance services, joined AARP and pay membership fees to obtain the advertised insurance, and/or have purchased insurance from United Healthcare.

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45. Defendants mislead and deceive Plaintiffs and the Class by advertising, marketing, and insurance services and products with the AARP logo, brand and name which represents both a non-profit and senior organization in violation of this statute and California Insurance Code § 787.

46. Defendants breached their duty of honesty, good faith, and fair dealing through their deceptive and misleading advertisements directed to seniors in violation of this statute.

47. Plaintiffs and the Class rely on Defendants' collective branding, marketing, advertising, and goodwill in determining whether to join AARP, pay the AARP membership fees, whether to consider United Healthcare insurance and pay for the insurance.

48. Pursuant to California Insurance Code § 789.3, UnitedHealth, as an insurer, is liable for penalties of no less than \$30,000 for each violation of California Insurance Code § 785.

49. Pursuant to California Insurance Code § 789.3, AARP, as an insurer, is liable for penalties of no less than \$5,000 for each violation of California Insurance Code § 785.

50. Plaintiffs and the Class were harmed by Defendants' violation of this statute, violation of California Insurance Code § 787, and Defendants's breach of duty of honesty, good faith and fair dealing by fooling Plaintiffs and the Class into joining AARP, paying AARP membership fees, selecting and paying for the AARP branded insurance products and services. Further, the AARP branded insurance services and products were artificially inflated in light of AARP's 4.95 percent commission, cost more than its competitors and included less coverage than its competitors. As such, Plaintiffs and the Class has suffered monetary losses by forcing to pay AARP membership fees, AARP's commission, and higher insurance rates for less coverage. Even more so, Plaintiffs and the Class were taken advantage of by Defendants' insurance scheme to deceive and manipulate persons over 65 years of age by using the goodwill of known and reputable companies in a direct violation of the Insurance Code.

51. As a direct and proximate result of Defendants' conduct, Plaintiffs have incurred and will continue to incur attorneys' fees and related expenses in an amount to be proven at trial.

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SECOND CAUSE OF ACTION

(Violation of California Insurance Code § 787)

52. Plaintiffs repeats, re-alleges, and incorporates by this reference as though set forth in full herein all prior paragraphs.

53. California Insurance Code § 787 requires that any insurance advertisement directed towards a persons of 65 years of age or older “not employ words, letters, symbols, or other devices that are so similar to those used by ... a nonprofit or charitable institution ... senior organization ...” as to not mislead the public. Misleading materials include advertisements provided by, endorsed by, or connected with ... nonprofit or charitable institutions ... or senior organizations”

54. As illustrated above, Defendants advertise insurance policies directed at individuals over 65 years of age that employ words, letters, symbols, and logos belonging to, affiliated with, and recognized as AARP, which is a non-profit organization and a senior organization.

55. AARP endorses and solicits insurance policies directed at persons of 65 years of age.

56. Plaintiffs and the Class rely on Defendants’ collective branding, marketing, advertising, and goodwill in determining whether to join AARP, pay the AARP membership fees, whether to consider United Healthcare insurance and pay for the insurance.

57. Pursuant to California Insurance Code § 789.3, UnitedHealth, as an insurer, is liable for penalties of no less than \$30,000 for each violation of California Insurance Code § 787.

58. Pursuant to California Insurance Code § 789.3, AARP, as an insurer, is liable for penalties of no less than \$5,000 for each violation of California Insurance Code § 787.

59. Plaintiffs and the Class were harmed by Defendants’ violation of this statute by being deceived into joining AARP, paying AARP membership fees, selecting and paying for the AARP branded insurance products and services. Further, the AARP branded insurance services and products were artificially inflated in light of AARP’s 4.95 percent commission, cost more than its competitors and included less coverage than its competitors. As such, Plaintiffs and the Class has suffered monetary losses by forcing to pay AARP membership fees, AARP’s commission, and higher insurance rates for less coverage. Even more so, Plaintiffs and the Class were taken advantage of by Defendants’ insurance scheme to deceive and manipulate persons over 65 years of age by using the

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goodwill of known and reputable companies in a direct violation of the Insurance Code.

60. As a direct and proximate result of Defendants' conduct, Plaintiffs have incurred and will continue to incur attorneys' fees and related expenses in an amount to be proven at trial.

THIRD CAUSE OF ACTION

(NEGLIGENCE)

61. Plaintiff repeats, re-alleges, and incorporates by this reference as though set forth in full herein all prior paragraphs.

62. Defendants owed a statutory duty to Plaintiffs and the Class to act reasonably and not direct advertisements to individuals over 65 years of age that contain AARP branded insurance policies in violation of the law to profit financially from taking advantage of vulnerable persons and their perception of AARP.

63. Defendants breached that duty to plaintiffs, as set forth above in this complaint.

64. The Defendants' negligence was a substantial factor in causing Plaintiffs harm.

65. As a result of the Defendants' negligence, Plaintiffs and the Class was harmed by having lost money in an amount provable at trial as set forth in this complaint.

FOURTH CAUSE OF ACTION

(Unlawful Business Acts and Practices in Violation of California Business & Professions

Code § 17200, et seq.)

66. Plaintiffs repeats, realleges, and incorporates by this reference as though set forth in full herein all prior paragraphs.

67. California Business & Professions Code § 17200 prohibits any unlawful or unfair business act or practice.

68. Defendants' acts, omissions, misrepresentations, practices and nondisclosures alleged herein also constitute "unfair" business acts and practices within the meaning of Business & Professions Code § 17200, *et seq.*, in that their conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits attributable to such conduct.

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1 69. As stated in this Complaint, Plaintiffs allege violations of unfair competition and
2 insurance laws in California resulting in harm to consumers. Plaintiffs asserts violations of the public
3 policy of engaging in false and misleading advertising, unfair competition and deceptive conduct
4 towards consumers.

5 70. There were reasonably available alternatives to further Defendants' legitimate business
6 interests, other than the conduct described herein.

7 71. Defendants' conduct caused and continues to cause substantial injury to Plaintiffs and
8 the other Class members. Plaintiffs has suffered injury in fact and has lost money as a result of
9 Defendants' unfair conduct.

10 72. As a result of the conduct described above, Defendants have been and will be unjustly
11 enriched at the expense of Plaintiffs and the members of the Class. Specifically, Defendants have
12 been unjustly enriched by the receipt of millions of dollars in monies and profits from the illegal
13 payment and connection of commissions from the sale and renewal of AARP branded insurance,
14 which product was promoted and sold through solicitations and advertisements which made
15 misleading statements.

16 73. Pursuant to Business & Professions Code §§ 17203 and 17535, Plaintiffs and the
17 members of the Class seek an order disgorging Defendants' ill-gotten gains, awarding Plaintiffs and
18 the members of the Class full restitution of all monies wrongfully acquired by Defendants by means
19 of such acts of unlawful, unfair and fraudulent business acts and practices, plus interest and attorneys'
20 fees pursuant to, *inter alia*, California Code of Civil Procedure § 1021.5, so as to restore any and all
21 monies to Plaintiffs and the members of the Class which were acquired and obtained by means of
22 such unlawful, unfair and fraudulent business acts and practices, and which ill-gotten gains are still
23 retained by Defendants.

24 74. Plaintiffs additionally requests that such funds be impounded by the Court or that an
25 asset freeze or trust be imposed upon such revenues and profits to avoid dissipation and/or fraudulent
26 transfers or concealment of such monies by Defendants. Plaintiffs and the Class may be irreparably
27 harmed and/or denied an effective and complete remedy if such an order is not granted.

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1 75. Additionally, pursuant to Business & Professions Code § 17203, Plaintiffs seeks an
2 order requiring Defendants to cease their solicitation activities and violating the Code with respect
3 to AARP branded insurance so as to not mislead or deceive consumers.

4 **FIFTH CAUSE OF ACTION**

5 **(Unlawful Business Acts and Practices in Violation of California Business & Professions**
6 **Code § 17500, et seq.)**

7 76. Plaintiffs repeats, realleges, and incorporates by this reference as though set forth in
8 full herein all prior paragraphs.

9 77. California Business & Professions Code § 17500 prohibits false advertising.

10 78. Defendants violated and continue to make untrue or misleading statements to senior
11 citizens with the intent to induce them to purchase insurance. These untrue or misleading statements
12 include AARP endorsements and branding which mislead and deceive individual into believing that
13 AARP is a non-profit organization when the advertisements, offer, and sale of insurance services are
14 actually by an affiliated for-profit organization disguised as the non-profit organization resulting in
15 misleading advertisements for the sale of insurance to seniors.

16 **SIXTH CAUSE OF ACTION**

17 **(Financial Elder Abuse)**

18 79. Plaintiffs repeats, realleges, and incorporates by this reference as though set forth in
19 full herein all prior paragraphs.

20 80. Defendants' course of conduct is ongoing and constitutes financial elder abuse.

21 81. Defendants committed financial elder abuse by using misrepresentations to trick and
22 deceive Plaintiffs into purchasing insurance policies branded and endorsed by AARP which is not
23 only illegal, but improper as it is used to intentionally and deliberately confuse the elders into
24 believing that the non-profit AARP has selected UnitedHealth Care to be the best insurance company
25 for all of its members when in actuality is the for-profit AARP company making a commission on
26 each sale it makes.

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1 82. Defendants owed Plaintiffs a duty of honesty, good faith and fair dealing. Defendants
2 committed financial elder abuse when they knowingly and wilfully breached that duty in order to steer
3 Plaintiffs into purchasing an insurance policy that only Defendants benefit from.

4 83. Defendants' predatory practices unlawfully misappropriated Plaintiffs' property,
5 constituted financial abuse and caused him to suffer special and general damages, including
6 substantial emotional distress and frustration.

7 84. Defendants planned and engaged in their pattern of financial elder abuse with malice,
8 oppression and fraud as those terms are defined by Civil Code § 3294, entitling Plaintiffs to an award
9 of punitive damages. Substantial exemplary damages are particularly appropriate and important here
10 because Defendants' predatory practices are directed at a particularly vulnerable and unsophisticated
11 class of elderly consumers, many of whom remain unaware of the wrongdoing or are otherwise unable
12 to find an attorney to take what, on its face, appears to be a very small case. Without the imposition
13 of substantial exemplary damages, Defendants retain every incentive to continue their unlawful,
14 misleading and harmful practices of preying upon elders.

15 85. As an elder, the above-described facts also entitle Plaintiffs to recover, and Plaintiffs
16 seeks to recover, treble damages pursuant to Civil Code § 3345.

17 86. As a direct and proximate result of Defendants' conduct, Plaintiffs have incurred and
18 will continue to incur attorneys' fees and related expenses in an amount to be proven at trial. Plaintiffs
19 therefore seeks all of those fees and costs pursuant to Welfare & Institution Code § 15657.5.

20 **APPLICATION FOR TEMPORARY INJUNCTION AND PERMANENT INJUNCTION**

21 87. Because Defendants have engaged in the unlawful acts and practices described above,
22 Defendants have violated and will continue to violate the law as alleged in this Complaint.

23 88. Unless immediately restrained by this Honorable Court, Defendants will continue to
24 violate the laws of the State of California and cause immediate, irreparable injury, loss and damage
25 to the Plaintiffs and Class.

26 89. Therefore Plaintiffs requests a Temporary Injunction and Permanent Injunction as
27 indicated below.

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REQUEST FOR JURY TRIAL

90. Plaintiffs requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class demands judgment against Defendants as follows:

1. That Defendants be cited according to law to appear and answer herein; that after notice and hearing, a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants, Defendants' successors, assigns, officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendants, from engaging in the acts or practices complained of herein;

2. For an Order requiring Defendants to restore all money or other property taken from identifiable persons by means of unlawful acts or practices and award judgment for damages and restitution in an amount within the jurisdictional limits of this Court to compensate for such losses;

3. For an Order requiring the disgorgement of all sums taken from consumers by means of deceptive practices, together with all proceeds, interest, income, profits and accessions thereto;

4. That the Court certify this action and the Class as requested herein, appointing Plaintiffs as Class Representative, and appointing The Homampour Law Firm and Schimmel & Parks as Class Counsel;

5. Award Plaintiffs and the Class members court costs and reasonable and necessary attorneys' fees in relation to the amount of work expended, and any other relief the Court determines is proper;

6. For an award of Plaintiffs' general, special, actual and compensatory damages as proven at time of trial;

7. For treble damages under Civil Code §3345;

8. For punitive damages;

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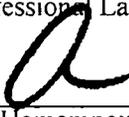
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9. For such other and further relief which this Court deems just and proper.

DATED: November 16, 2017

THE HOMAMPOUR LAW FIRM
A Professional Law Corporation

By:


Arash Homampour
Danielle Lincors
Attorneys for Plaintiff and the Class

DATED: November 16, 2017

SCHIMMEL & PARKS
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