UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARBUCKLE FUNDING, LLC, and BRIGHTON TRUSTEES LLC, on behalf of and as Trustee for COOK STREET MASTER TRUST III, individually on behalf of all others similarly situated,

Plaintiffs,

vs.

TALCOTT RESOLUTION LIFE AND ANNUITY INSURANCE COMPANY and TALCOTT RESOLUTION LIFE INSURANCE COMPANY,

Defendants.

Civil Action No. 7:23-cv-07972-CS

FOURTH AMENDED CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 15(a)(2), and following the written consent of Defendants to the filing of this Fourth Amended Complaint received on April 6, 2026, Arbuckle Funding, LLC ("Arbuckle") and Brighton Trustees LLC, on behalf of and as Trustee for Cook Street Master Trust III ("Brighton," and collectively with Arbuckle, "Plaintiffs"), individually and on behalf of all others similarly situated, for their Fourth Amended Class Action Complaint against Defendants Talcott Resolution Life and Annuity Insurance Company ("Talcott") and Talcott Resolution Life Insurance Company ("HLIC" and, collectively with Talcott, "Defendants"), state as follows:

NATURE OF THE ACTION

1. This is a class action brought on behalf of Plaintiffs and similarly situated owners of certain universal life insurance policies insured by Defendants. Plaintiff Arbuckle seeks to represent a class of policyholders who have been forced to pay unlawful and excessive cost of

insurance ("COI") charges by Talcott, and Plaintiffs Arbuckle and Brighton seek to represent another two classes of policyholders who have been forced to pay excessive premium tax charges to Talcott and HLIC.

2. Universal life policies are variable rate contracts. Unlike term or whole life policies, where premiums are generally fixed and disclosed in advance, universal life policies have separate policy charges that are determined on an ongoing, prospective basis, and those charges—and the rates used to calculate them—are designed to go up or down as the insurer's expectations of future cost factors change. By far the largest charge in a universal life policy is the COI charge, which is calculated on a monthly basis by multiplying the net amount at risk (i.e., the death benefit amount minus the policyholder's account value) by the COI rate, and then deducted from the policyholder's account.

3. Where permitted by the policy language, COI rates are initially determined on an after-tax basis. That is, the insurer sets COI rates and other charges to generate a certain amount of after-tax profit. Prior to 2018, virtually every insurer used a 35% corporate income tax rate assumption for product pricing.

4. In late 2017, however, Congress passed the Tax Cuts and Jobs Act (TCJA), which, among other things, reduced the corporate income tax rate from 35% to 21%. This was a boon for life insurance companies like Talcott. Publicly-traded life insurers like Manulife, Protective, Prudential, and Lincoln Financial reported to their shareholders that the TCJA would result in hundreds of millions, and in some cases billions, of dollars in additional profits. The Society of Actuaries (SOA) quickly incorporated the change in its industry tools. For example, in its 2021 update to its Life Pandemic Model: U.S. Life Insurance Industry Moderate Scenario, it changed the assumed tax rate from 35% to 21%.

5. The passage of the TCJA should have led to a significant reduction in COI rates for Talcott's universal life policies. Under a 35% tax rate, an insurer like Talcott would have to earn pre-tax profits of roughly $154 million to realize an after-tax profit of $100 million. With a 21% tax rate, Talcott needs to generate only $126.6 million in pre-tax profits to produce the same $100 million in after-tax profits. This change alone would indicate that, following the enactment of the TCJA, COI rates should have been reduced by 18%.[1]

6. Talcott, however, has not reduced COI rates at all following the passage of the TCJA; instead, it has in fact continued to ***increase*** COI rates according to a pre-TCJA rate scale. This violates the COI rate provision in Arbuckle's policy (and thousands of other Talcott policies), which states:

> **Cost of Insurance Rate…**Rates will be determined ***on each Policy Anniversary*** based on Our future expectations of such factors as mortality, expenses, interest, persistency and ***taxes***. Any change We make will be on a uniform basis for Insureds of the same Issue Age and insurance class and whose coverage has been in force for the same length of time.

7. This provision requires Talcott to redetermine COI rates annually based on its then-current future expectations of taxes, among other factors. This means that if Talcott's expectations as to future tax liability improve (that is, if it expects future tax liability to decline), COI rates must be adjusted downward to reflect the improvement. Yet, in redetermining COI rates in each of 2019, 2020, 2021, and 2022, Talcott has ***ignored*** entirely its post-TCJA tax expectations, and kept for its owners—rather than passing along to policyholders—the windfall profits that it is generating as a result of the TCJA.

8. Talcott's conduct is particularly galling given that life insurers have not hesitated to ***increase*** COI rates as a result of adverse changes in tax laws. In 1990, Congress passed the

[1] $126.6 million is 82% of $154 million.

Revenue Reconciliation Act of 1990, which changed how insurers, for federal income tax purposes, amortized expenses associated with acquiring new business, and resulted in what insurance companies claimed were an increase in insurer tax liability.[2] Many insurers responded by increasing COI charges to pass along the increased tax liabilities to policyholders. However, some policyholders and state regulators successfully challenged these rate increases because taxes were not enumerated as a factor on which COI rates could or would be based.

9. As a result of that first wave of COI litigation, and to ensure they could offset the effects of future tax increases, many insurers changed their policy forms to expressly state that COI rates will also be based on taxes. Talcott's policies are paradigmatic: whereas early universal life policies often stated only that COI rates will be determined "based on Our expectations of future mortality experience," Talcott's post-2000 policies, including Arbuckle's, explicitly identify taxes as a factor on which COI rates "will be determined."

10. It is apparent that Talcott wrongly construes its policies as granting it a nonsensical "heads I win, tails you lose" power, reserving the right to *increase* COI rates in response to increasing tax liability, but not requiring it to *decrease* COI rates in the face of an unambiguous and far more dramatic reduction in tax liability that resulted from the TJCA. This interpretation is contrary to the plain language of the policies. As a result of this misconduct, Arbuckle seeks monetary relief for the COI overcharges that Talcott has wrongly imposed on Arbuckle and all of its similarly situated customers who each own policies with the same or materially identical language at issue here.

11. Talcott and HLIC have also been overcharging Arbuckle, Brighton, and other policyholders in another way. In addition to COI charges, Talcott and HLIC also impose premium

[2] These changes are often referred to as the "DAC Tax," or "DAC Tax Reform." "DAC" stands for "deferred acquisition costs."

tax charges, which are designed to cover the premium taxes that Talcott and HLIC must pay each state (and, in some cases, municipalities) from which they receive a premium payment. Because different states and municipalities can have different premium tax rates, these charges are variable and depend on the policyholder's state of residence. Premium tax charges are supposed to change if the owner's address on file with Talcott and HLIC changes, or if the owner's state or municipality changes its premium tax rate, such that the rate used to calculate premium tax charges will be equal to the premium tax rate of the state in which the policy owner currently resides. Plaintiff Arbuckle's policy, which was originally issued in California, states as follows:[3]

DEDUCTIONS FROM PREMIUM PAYMENTS

TYPE OF CHARGE	POLICY YEARS	PERCENT OF PREMIUMS PAID
PREMIUM CHARGE	1 - 20 21+	5.00% 2.00%
PREMIUM TAX	ALL	2.35%

THE PREMIUM TAX PERCENTAGE RATE DEPENDS UPON THE RATE ASSESSED BY YOUR STATE OR MUNICIPALITY OF RESIDENCE. IF YOUR STATE OR MUNICIPALITY OF RESIDENCE CHANGES AND/OR IF YOUR STATE OR MUNICIPALITY CHANGES ITS PREMIUM TAX RATE, THE PREMIUM TAX RATE WILL CHANGE TO EQUAL THAT NEW RATE.

12. In 2019, Arbuckle, a New York-based limited liability company, acquired the policy from the original policyowner in a secondary market transaction. The change in ownership and address was recorded with Talcott, and ever since then Talcott has sent annual reports and other policy correspondence to Arbuckle's address in Suffern, New York. Talcott, however, has continued assessing a premium tax charge equal to 2.35% of premiums paid (the California premium tax rate), and not New York's much lower 0.7% premium tax rate. Upon information

[3] Materially identical language appears in the Brighton Policy: "THE TAX PERCENTAGE RATE DEPENDS UPON THE RATE ASSESSED BY YOUR STATE OR MUNICIPALITY. IF YOUR STATE OR MUNICIPALITY CHANGES OR IF YOUR STATE OR MUNICIPALITY CHANGES ITS TAX RATE, THE TAX RATE WILL CHANGE TO EQUAL THAT NEW RATE."

and belief, Talcott and HLIC have been overcharging thousands of other policyholders in the same way, both in New York and across the country. On behalf of itself and all similarly-situated policyholders, and on behalf of a subclass of all similarly-situated New York policyholders, Arbuckle, along with Brighton, seeks to recover the premium tax overcharges that Talcott and HLIC have wrongfully deducted from policyholder accounts, in addition to the COI overcharges described above.

13. Since this case was originally filed, discovery has revealed that the problems with the way that Defendants calculate premium tax charges go far beyond policyholders that have moved states. Defendants have systematically ignored the contractual commitments that they made concerning the calculation of premium tax charges. Talcott and HLIC have not only failed to change the premium tax percentage rate when policyholders move across jurisdictions, but also ignored reductions in state premium tax rates and even disregarded what numerous states' actual premium tax rates are.

14. As an example, in January 2025—16 months *after* this case was filed, and 6 years *after* the residence state changed—Talcott claims that it finally stopped (going forward) charging Arbuckle the incorrect 2.35% California premium tax rate, but then replaced it with a 1.5% premium tax percentage rate—*which is more than double New York's actual premium tax rate*.

15. Defendants' apparent reasoning for charging premium tax percentage rates that are higher than the applicable premium tax rate is due to "retaliatory" taxation. New York, for example and as relevant here, levies two types of insurance taxes on insurance companies engaging in business in New York. In addition to imposing a premium tax (which is 0.7%), New York also exacts a "retaliatory" tax on foreign insurance companies, like Defendants, doing business in New York. This "retaliatory" tax is imposed by New York when the foreign insurer's state imposes

higher taxes on New York insurance companies doing business in that foreign state than New York would otherwise impose on the foreign state's insurer doing business in New York.

16. As a result, instead of charging New York's .7% premium tax rate, Defendants are using a different percentage assessed by Connecticut (1.5%) to calculate premium tax charges for policyholders that do not live and have never lived in Connecticut.

17. This is not permitted. The policies' premium tax provision refers only to premium tax rates and expressly states that "If your state or municipality of residence changes and/or if your state or municipality changes ***its premium tax rate***, the premium tax rate will change to equal that new rate." It makes no reference to retaliatory taxes, which Defendants were unquestionably aware of when they drafted the policy language. And premium taxes and retaliatory taxes are distinct charges that serve different purposes and are calculated differently.

18. Making matters worse, for years Defendants were charging policyholders premium tax charges that exceeded even the retaliatory tax fees. Effective January 1, 2018, Connecticut *decreased* its premium tax rate from 1.75% to 1.5%, which reduced the retaliatory tax fees that Defendants paid to other states, but Defendants nevertheless continued to charge policyholders retaliatory taxes at the 1.75% rate until, Talcott's discovery answers state, January 2025.

THE PARTIES

19. Plaintiff Arbuckle Funding LLC is organized under the laws of New York; is headquartered at 1 Executive Blvd, Suite 110, Suffern NY, 10901; and is a citizen of New York. Arbuckle owns a Flexible Premium Adjustable Life Policy, policy number LU2220698, which was issued by Talcott's predecessor Hartford Life and Annuity Insurance Company on December 15, 2006, and currently has a face value of $250,000 (the "Arbuckle Policy").

20. Plaintiff Brighton Trustees, LLC, which brings this action on behalf of and as

Trustee for Cook Street Master Trust III, is organized under the laws of Delaware and has its principal place of business in New York. The sole members of Brighton Trustees, LLC are individuals who are United States citizens domiciled in New York and Canada. Brighton is the trustee of a Flexible Premium Universal Life Insurance Policy, policy number U01830270, which was issued by Hartford Life Insurance Company, a predecessor of Talcott Resolution Life Insurance Company, on December 20, 2004, and with a face amount of $2 million (the "Brighton Policy").

21. Defendant Talcott Resolution Life and Annuity Insurance Company, formerly known as Hartford Life and Annuity Insurance Company, is a corporation organized and existing under the laws of Connecticut, having its principal place of business in Hartford, Connecticut. Talcott is licensed to and does transact insurance in New York.

22. Defendant Talcott Resolution Life Insurance Company, formerly known as Hartford Life Insurance Company, is a corporation organized and existing under the laws of Connecticut, having its principal place of business in Hartford, Connecticut. HLIC is licensed to and does transact insurance in New York

JURISDICTION AND VENUE

23. This Court has original jurisdiction over Plaintiffs' claims pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because this is a class action with diversity between at least one class member and one defendant, and the aggregate amount of damages exceeds $5,000,000.

24. This Court has personal jurisdiction over Defendants because Defendants regularly transact business and issue life insurance in the State of New York, and because two of the three classes alleged in this action include subclasses consisting solely of New York policyholders.

25. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)–(d) because Defendants are deemed to reside in this District and the events giving rise to causes of action for members of both classes occurred in this District, including the issuance of policies in this District and the improper collection of COI rate and premium tax overcharges from persons residing in this District, including Plaintiffs.

FACTUAL BACKGROUND

A. The Talcott-Issued COI Overcharge Policies at Issue

26. For the COI overcharge claims, the policies at issue are all flexible-premium, universal life policies issued by Talcott or its predecessors-in-interest stating that COI rates are determined "based on our future expectations of such factors as . . . taxes." These policies are referred to as "COI Overcharge Class Policies." The COI Overcharge Class Policies are all form policies, and owners are not permitted to negotiate different terms. The COI Overcharge Class Policies are all contracts of adhesion.

27. Universal and variable universal life policies ("UL" policies) combine death benefits with a savings or investment component, often known as the "account value" or "accumulated value." One benefit of UL policies is that they permit policyholders flexibility in the amount and timing of premiums necessary to keep the policies in-force. Unlike other kinds of whole life and term life insurance that require fixed monthly premium payments, the premiums required for UL policies need only be sufficient to cover the COI charges and certain other specified expenses. The COI charge is deducted from the account value (i.e., the savings component) of the policy every month, so the policyholder forfeits the COI charge entirely to Talcott. Any premiums paid in excess of COI charges and other charges are applied to the account value. These excess premiums earn interest at the credited rate. This structure is beneficial because

it allows policyholders to set the savings level within the policy and earn a return that is equal to or exceeds a specified minimum.

28. The size of the COI charge is highly material to universal life policyholders. First, it dictates the minimum amount of money that must be paid to keep a policy in force. Second, high COI rates can quickly diminish account value and reduce the amount of money on which interest can be earned. Absent a secondary guarantee, if the policy value diminishes such that COI charges and certain other specified expenses can no longer be deducted, then the policy will go into grace and, if no additional premiums are paid after adequate time provided by an accurate grace notice, the policy may lapse.

29. The Arbuckle Policy has the following language defining how the monthly rate– known as the "Cost of Insurance Rate" – used to calculate the COI charge will be determined:

> **Cost of Insurance Rate.** The Cost of Insurance Rate for the Initial Face Amount is based on the current Policy Year as well as the sex, Issue Age and insurance class of the Insured shown on the top of Page 3. The Cost of Insurance Rate for any subsequent Face Amount Increases is based on the number of years that have elapsed since the effective date of the increase as well as the sex, Issue Age and insurance class of the Insured for that increase. The Cost of Insurance Rates for the Initial Face Amount and each subsequent Face Amount Increase will not exceed those in the Table of Monthly Maximum Cost of Insurance Rates shown on Page 3C. We can use Cost of Insurance Rates that are lower than the Monthly Maximum Cost of Insurance Rates shown on Page 3C. <u>Rates will be determined ***on each Policy Anniversary*** based on Our future expectations of such factors as mortality, expenses, interest, persistency and ***taxes***.</u> Any change We make will be on a uniform basis for Insureds of the same Issue Age and insurance class and whose coverage has been in force for the same length of time.

30. Under this language, if Talcott's expectations of future taxes change for the better (that is, if it expects future tax liability to decline), then COI rates change as well. Talcott cannot simply ignore positive changes to its future expectations, while reserving the right to increase COI rates if negative changes occur.

B. <u>Talcott Fails to Reduce COI Rates Despite Benefitting from a Dramatic Decrease in Tax Liability After the Tax Cut and Jobs Act of 2017</u>

31. Life insurance policies are typically priced on an after-tax basis, such that COI rates and other charges are, if permitted by contract, calculated to generate a certain level of after-tax profits. Prior to 2018, virtually every "multi-factor"[4] UL policy was priced with an explicit tax assumption that the federal income tax rate would be 35%. Upon information and belief, Talcott priced the Arbuckle Policy and all other COI Overcharge Class Policies with an assumption that the corporate tax rate would remain at 35%.

32. In 2017, the corporate tax rate was dramatically reduced from 35% to 21%. This was a boon for life insurers like Talcott. Prudential, for example, recognized a $2.88 billion tax benefit in its Consolidated Statements of Operations for the year ended December 31, 2017. Protective Life recognized a provisional $797.6 million tax benefit in its consolidated statement of income for the year ended December 31, 2017. Manulife, which owns U.S.-based life insurers John Hancock Life Insurance Company (U.S.A.) and John Hancock Life Insurance Company of New York, reported in 2018 that the expected impact of the TCJA "is an expected ongoing benefit to net income attributed to shareholders and core earnings of approximately $240 million per year commencing in 2018."

33. Documents filed with the National Association of Insurance Commissioners confirm that Talcott expected to receive a massive future tax benefit from the TCJA. In an Independent Auditor's Report of Hartford Life and Annuity Insurance Company (now Talcott) dated April 10, 2018, Deloitte & Touche LLP reported that:

[4] A "multi-factor" policy is a policy that identifies numerous cost factors on which COI rates are based, such as mortality, investment earnings, persistency, expenses, and taxes. A "single-factor" policy is a policy that identifies only one factor on which COI rates will be based—generally mortality. The COI Overcharge Class Policies are all multi-factor policies.

> Had the revised federal corporate tax rate of 21%, which is effective January 1, 2018, been in effect on December 31, 2017, the 2017 impact to surplus would have been $148,288,611.

"Surplus" refers to the amount by which an insurer's assets exceed its liabilities, meaning that the reduction in the federal corporate tax rate would have resulted in a $148 million gain to Talcott in a single year alone, *even after taking into account any purported "offsetting" changes in life insurance taxation caused by the TCJA*.

34. As noted in this Report, the TCJA did not take effect until the 2018 tax year, which means that the expected decrease in tax rates should have been reflected beginning in the yearly determination of COI rates that Talcott was required to conduct in 2018. It was not. Further, because Talcott expected this reduction in corporate tax rates to remain in place for every year in the future—which it has—these types of expected profitability gains would be recurring. That is, Talcott's expected after-tax profits would also increase in each of 2019, 2020, 2021, and 2022 as a result of the TCJA. And, in each of those years, Talcott was in fact profitable and paid tens of millions in federal income taxes.[5] Yet, in determining COI rates in each of those years, Talcott totally ignored its new and vastly improved "future expectations of . . . taxes," and has continued to increase COI rates each year using its un-redetermined pre-TCJA rate scale.

35. Even if Talcott no longer paid federal income taxes (which it in fact does) and did not benefit from the TCJA (which it did), Talcott would still be in breach. As alleged in Paragraph 23 above, the COI rates for the Subject Policies were originally determined on an after-tax basis with a 35% federal income tax rate assumption. That is, its assumptions of future mortality,

[5] The COI Overcharge Class Policies are also themselves profitable. Insurers price and sell life insurance to make money, and every universal life product is required to be "self-supporting," which means that the cumulative cash flow generated exceeds the cash flow out (e.g., death benefit payments, taxes, etc.). Each year, Talcott is required to respond to NAIC interrogatories asking if "there is a substantial probability that illustrations authorized by the reporting entity to be presented on new and existing business cannot be supported by currently anticipated experience." In each of 2017, 2018, 2019, 2020, 2021, and 2022, Talcott responded: "Generally, no. Illustrations authorized by the Company are generally supported by currently anticipated experience." The only exception cited is "payout annuitizations," which are not issue in this case.

expenses, interest, persistency, and similar factors were plugged into a model to determine COI rates that would generate a fixed level of after-tax profitability, using a 35% federal tax rate. If Talcott contends that its future expectations of taxes had, for whatever reason, already been reduced even before passage of the TCJA, and thus it would not benefit from the TCJA, then it would still be required to reduce COI rates on the Subject Policies to reflect the elimination of federal income tax expenses in the determination model. Talcott has not done do; it has instead ignored all improvement in its future expectations of taxes and simply kept in place the same COI rate scales that were determined using a 35% tax assumption.

36. The terms of the Arbuckle Policy require that Talcott pass along those future tax reductions to policyholders via a COI decrease. Indeed, that is the entire purpose of variable rate contracts like universal life: if future expectations change for the worse, rates can go up if consistent with the language of the policies; if future expectations change for the better, rates must come down. But Talcott has simply ignored its vastly improved tax expectations and left its pre-TCJA rate scale in place, in plain breach of its promise that actual COI rates would be determined "on each Policy Anniversary" (i.e., on an annual basis) "based on [its] future expectations of . . . taxes."

37. It is impossible for any alleged deterioration in Talcott's expectations for non-tax cost factors (e.g., mortality, expenses, interest, and persistency) to have offset the positive impact of the TCJA. The change in corporate tax rate alone implies that, for a profitable block of universal life policies, COI rates should be reduced by roughly 18%.[6] And, because Talcott is required to

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[6] In addition to the change in corporate tax rates, there were some other changes in the TCJA that also impact the taxation of universal life. The extent to which those changes impact a specific product or block of policies depends on how those policies were priced, the level of premiums paid by the policyowner, and what duration they were in. The actuarial consulting firm Milliman Inc. issued a white paper and concluded that, for *new* policies issued after TCJA took effect, COI rates on new policies should be set at least 8% lower than they were pre-TCJA. Regardless of whether

determine COI rates annually, COI rates had last been determined, using Talcott's then-current expectations of mortality, expenses, interest, and persistency, less than a year before the enactment of TCJA. It is wholly implausible that Talcott's mortality, expenses, interest, and persistency expectations, for example, suddenly deteriorated in 2017 at the exact same time as the TCJA was enacted, and offset entirely—and exactly—the dramatic reduction in corporate tax rates.

38. Moreover, mortality is generally the most significant component of COI rates, and it—like corporate income tax rates—has only improved since the Arbuckle Policy was issued. Beginning at least in 1941, the National Association of Insurance Commissioners ("NAIC") has issued a series of Commissioners Standard Ordinary ("CSO") mortality tables. These are industry standard mortality tables that insurers use to calculate reserves and to set maximum permitted COI rates in UL policies. The IRS also uses the CSO tables to define what constitutes "life insurance," what constitutes a "reasonable mortality charge," and what is deductible for federal tax purposes.

39. The 2001 CSO Mortality Table was the most recent CSO mortality table at the time the Arbuckle Policy was issued. Since that table was introduced, the SOA has continued to survey the death rates that large life insurance companies actually observe among their policyholders, in the process of analyzing expectations of future mortality experience. These surveys have consistently showed mortality improvement since 2001. For example, the SOA published Individual Life Experience Reports for the periods 2005-2007, 2008-2009, and 2009-2016, each of which noted strong rates of improvement in mortality. Another SOA study called the Mortality Improvement Survey Report confirms that conclusion.

TCJA necessitated an 18% reduction in COI rates, or closer to an 8% reduction, the impact was highly material and could not possibly have been offset by deterioration in any other expectations.

40. Periodically the SOA will publish an updated table to reflect the evolving industry experience. Some major updates include the 2008 Valuation Basic Table and the 2015 Valuation Basic Table. Each of these updates confirms that mortality has continued to significantly improve since the 2001 CSO Table. Other surveys have also noted mortality improvements. In May 2013, for example, the reinsurance company RGA published a report sponsored by the SOA enumerating mortality rates and mortality improvements at older ages, which showed material rates of mortality improvements. In 2018, ITM, a life expectancy service, released a report showing continued mortality improvement. These improvements have resulted in lower costs to insurers, which, like lower tax rates, should be passed on to policyholders through lower COI charges.

41. At a minimum, there was nothing that occurred in 2017 that would have resulted in an upward revision of Talcott's mortality expectations or offset the future benefits of the TCJA. COVID-19 did not emerge until 2020, and the increase in mortality resulting from that was (a) relatively small in historical terms, (b) generally viewed by the industry as transitory, with insurers still projecting future mortality improvement to continue.

42. Indeed, Talcott has itself acknowledged that there were no adverse changes in mortality or any other anticipated experience factor. Each year, insurers must file annual interrogatory statements with the NAIC. These are sworn statements that are certified and signed by an actuary. The interrogatories include questions regarding the determination of non-guaranteed elements (which include COI rates) and whether expectations have changed. For example, Question 4 asks: "Are the anticipated experience factors underlying any nonguaranteed elements [e.g., COI rates] different from current experience?" In each of 2015, 2016, 2017, 2018, 2019, 2020, and 2021, Talcott answered "No." This confirms that neither mortality nor any other

anticipated experience factor had deteriorated, let alone to such a degree that it would offset the positive impact of the TCJA.

C. **Talcott's and HLIC's Breach of Policies by Charging Excessive and Incorrect Premium Tax Rates**

43. Talcott and HLIC both assess an additional charge on each premium payment to recoup another type of tax: state and municipal level premium taxes.

44. State and municipal premium taxes work like sales taxes on insurance companies, with different states and some municipalities charging different rates. The applicable tax rate depends on the state where the owner lives when each premium is paid, as determined by the owner's mailing address as shown in the companies' records. Defendants pass this cost on to consumers in the form of a premium tax charge, but they promise that "if your state or municipality of residence changes and/or if your state or municipality changes its premium tax rate, *the premium tax rate will change to equal that new rate*."

45. Under this policy language, if a policyholder moves to a state or municipality with a lower premium tax rate, Defendants must reduce the premium tax charge they levy against the policyholder to reflect the lower rate. Defendants must also reduce the premium tax charge whenever the policyholder's state or municipality reduces its premium tax rate.

46. Defendants are aware of when their policyholders move to different states or municipalities. Defendants track the residence of the owners of their policies in their administrative systems, and new owners must submit "change of ownership" forms to Defendants in order for a transfer to take effect. Defendants must also keep accurate address information so that they can send annually required statements and other correspondence to policyholders. As demonstrated by the tax returns produced by Talcott in this litigation, Defendants are also acutely aware of when

states or municipalities change their premium tax rates because they must pay state taxes at least annually.

47. Separate and distinct from premium taxes, states also impose a different category of fees called retaliatory taxes. These retaliatory taxes are different than premium taxes and are designed to ensure that resident insurers are not treated less favorably in other states than those other states' insurers are treated in the taxing state. In other words, a state assesses these taxes in "retaliation" against another state for assessing higher taxes on the home state's insurance companies.

48. Here, Talcott's and HLIC's home state of Connecticut currently charges a 1.50% premium tax rate. For at least one year since 2017, fifteen states have charged insurers at lower premium tax rates than Connecticut: New York, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, New Hampshire, Ohio, Oregon, South Carolina, and Wyoming. These states still collect premium taxes from Defendants at the same rate as they do from domestic insurers. But they also separately impose retaliatory taxes.

49. Talcott and HLIC have ignored this distinction between premium tax and retaliatory tax by blending the two rates together and inflating the premium tax rates in these other states to equal Connecticut's higher rate. There are no grounds in the policies to do so; the policies in fact prohibit the use of anything other than premium tax rates to calculate premium tax charges. And Talcott and HLIC have also failed to lower their premium tax charges when states have reduced their premium tax rates. As a result, policyholders have been—and continue to be—forced to pay artificially inflated premium tax charges to Talcott and HLIC.

50. The Arbuckle Policy is illustrative: that policy was originally issued in California but was later acquired by the New York-based Arbuckle. Talcott confirmed the change in

ownership, switched the address on file to 1 Executive Blvd, Suffern, NY 10901, and began sending annual statements and other correspondence to New York instead of California. Yet, despite knowing that the policyholder had moved from California to New York, Talcott has nonetheless continued to charge Arbuckle a premium tax rate of 2.35% (the California premium tax rate) rather than 0.7% (the New York premium tax rate). That is, Talcott was collecting from each premium payment a charge that is 1.65% higher than it should have.

51. In January 2025—16 months after this case was filed—Talcott claims that it finally stopped (going forward only) charging Arbuckle the incorrect California premium tax rate, but did not change it "to equal" New York's premium tax rate. Instead, it topped off the New York premium tax rate with an entirely separate fee for retaliatory taxes and started charging Arbuckle a premium tax percentage rate of 1.5%. Defendants engage in the same practice with Brighton and other similarly situated policyholders as well, in New York and across the country, in clear breach of policy terms.

CLASS ACTION ALLEGATIONS

52. This action is brought by Plaintiffs individually and on behalf of three classes pursuant to Rules 23(b)(3) of the Federal Rules of Civil Procedure. The first class, which only Arbuckle seeks to represent, is referred to as the "COI Overcharge Class" and consists of:

> All current and former owners of universal life (including variable universal life) insurance policies issued or insured by Talcott Resolution Life and Annuity Insurance Company and its predecessors in interest that state that cost of insurance rates will be determined based on future expectations that includes taxes.

53. Plaintiffs Arbuckle and Brighton seek to represent a second class of policyholders, referred to as the "First Premium Tax Overcharge Class." The First Premium Tax Overcharge Class consists of:

> All current and former owners of insurance policies issued or insured by Talcott Resolution Life and Annuity Insurance Company or Talcott Resolution Life Insurance Company and their predecessors in interest that own policies (i) with language providing that, in the event the policyholder changes state or municipality of residency, the insurer will change the premium tax rate it charges to equal that new rate, (ii) for which a new address was registered with Talcott or HLIC after issuance, and (iii) which were assessed a premium tax rate in excess of the premium tax rate assessed by the state or municipality associated with the new registered address.

54. Within the First Premium Tax Overcharge Class, Plaintiffs seek to represent a subclass of New York policyholders, referred to as the "First New York Subclass." The First New York Subclass consists of:

> All current and former owners of insurance policies issued or insured by Talcott Resolution Life and Annuity Insurance Company or Talcott Resolution Life Insurance Company and their predecessors in interest that own policies (i) with language providing that, in the event the policyholder changes state or municipality of residency, the insurer will change the premium tax rate it charges to equal that new rate, (ii) for which a New York address was registered with Talcott or HLIC, and (iii) which were assessed a premium tax rate in excess of 0.7% during the time that the New York address was registered with Talcott or HLIC.

55. Plaintiffs seek to represent a third class of policyholders, referred to as the "Second Premium Tax Overcharge Class." The Second Premium Tax Overcharge Class consists of:

> All current and former owners of insurance policies issued or insured by Talcott Resolution Life and Annuity Insurance Company or Talcott Resolution Life Insurance Company and their predecessors in interest that own policies (i) with language providing that the insurer will assess premium tax rates that depend on the premium taxes assessed by the policyholder's state or municipality, and (ii) for which an address in Arizona, Connecticut, the District of Columbia, Idaho, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, New Hampshire, New York, Ohio, Oregon, South Carolina, or Wyoming was registered with Talcott or HLIC.

56. Within the Second Premium Tax Overcharge Class, Plaintiffs seek to represent a subclass of New York policyholders, referred to as the "Second New York Subclass." The Second New York Subclass consists of:

> All current and former owners of insurance policies issued or insured by Talcott Resolution Life and Annuity Insurance Company or Talcott Resolution Life Insurance Company and their predecessors in interest that own policies (i) with language providing that the insurer will assess premium tax rates that depend on the premium taxes assessed by the policyholder's state or municipality, and (ii) for which an address in New York was registered with Talcott or HLIC.

57. Plaintiffs reserve the right to seek certification of other subclasses, or alternative classes, by original issuing company, product, state of issue, or dates of ownership.

58. The COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses consist of hundreds or thousands of consumers of life insurance and are thus so numerous that joinder of all members is impracticable. The identities and addresses of class and subclass members can be readily ascertained from business records maintained by Talcott and HLIC.

59. The claims asserted by Plaintiffs are typical of the claims of the COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses.

60. Plaintiffs will fairly and adequately protect the interests of the classes and the New York Subclasses and do not have any interests antagonistic to those of the other members of those classes or the New York Subclasses.

61. Plaintiffs have retained attorneys who are knowledgeable and experienced in life insurance matters and COI matters, as well as class and complex litigation.

62. Plaintiffs request that the Court afford class and subclass members with notice and the right to opt-out of any classes or subclasses certified in this action.

63. This action is appropriate as a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure because common questions of law and fact affecting each class and the New York subclasses predominate over any individualized issues. Those common questions that predominate include:

(a) the construction and interpretation of the form insurance policies at issue in this litigation;

(b) whether Talcott's actions in failing to decrease the cost of insurance charges imposed on the COI Overcharge Class violated the terms of those form policies;

(c) whether Talcott breached the policy provision stating that "[r]ates will be determined based on Our future expectations of such factors as . . . taxes";

(d) whether Talcott "determined" rates "on each Policy anniversary";

(e) whether Defendants failed to adjust the premium tax rates they levied on policyholders that had moved to states or municipalities with lower premium tax rates from states or municipalities with higher premium tax rates;

(f) whether Defendants charged premium tax rates in excess of the premium tax rate imposed by the states in which the Second Premium Tax Overcharge Class and the New York Subclass resided;

(g) whether Defendants breached their contracts with Plaintiffs and members of the First Premium Tax Overcharge Class and the New York Subclass;

(h) whether Defendants breached their contracts with Plaintiffs and members of the Second Premium Tax Overcharge Class and the New York Subclass; and

(i) whether Plaintiffs and members of the proposed COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses are entitled to receive damages as a result of the unlawful conduct by Defendants as alleged herein and the methodology for calculating those damages.

64. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

(a) the complexity of issues involved in this action and the expense of litigating the claims means that few, if any, class or subclass members could afford to seek legal redress individually for the wrongs that Defendants committed against them, and absent class or subclass members have no substantial interest in individually controlling the prosecution of individual actions;

(b) when Defendants' liability has been adjudicated, claims of all class and subclass members can be determined by the Court;

(c) this action will cause an orderly and expeditious administration of the class and subclass claims and foster economies of time, effort and expense, and ensure uniformity of decisions;

(d) without a class action, many class and subclass members would continue to suffer injury, and Defendants' violations of law will continue without redress while Defendants continue to reap and retain the substantial proceeds of their wrongful conduct; and

(e) this action does not present any undue difficulties that would impede its management by the Court as a class action.

FIRST CLAIM FOR RELIEF

Breach of Contract on Behalf of Arbuckle and the COI Overcharge Class Against Talcott Only

65. Arbuckle realleges and incorporates the allegations above as if fully set forth herein.

66. The COI Overcharge Class Policies are binding and enforceable contracts.

67. Talcott breached its contracts with Arbuckle and the COI Overcharge Class by failing to determine COI rates "on each Policy Anniversary" based on future expectations of taxes and deducting COI charges calculated based on those unlawful rates. Arbuckle's and the COI

Overcharge Class's damages include, but are not limited to, the excess COI charges that Talcott deducted by not determining COI rates based on improved future tax expectations.

68. Talcott's failure also breaches the covenant of good faith and fair dealing that is implied by law in all contracts.

69. Arbuckle and the COI Overcharge Class have performed all of their obligations under the policies, except to the extent that their obligations have been excused by Talcott's conduct as set forth herein.

70. As a direct and proximate cause of Talcott's material breaches of the policies, Arbuckle and the COI Overcharge Class have been – and will continue to be – damaged as alleged herein in an amount to be proven at trial.

SECOND CLAIM FOR RELIEF

Breach of Contract on Behalf of Plaintiffs, the First Premium Tax Overcharge Class, and the First New York Subclass against Talcott and HLIC

71. Plaintiffs reallege and incorporate the allegations above as if fully set forth herein.

72. The First Premium Tax Overcharge Class Policies and First New York Subclass Policies are binding and enforceable contracts.

73. Defendants breached their contracts with Plaintiffs, the First Premium Tax Overcharge Class, and the First New York Subclass by failing to adjust premium tax rates for policyholders that moved from states or municipalities with higher premium tax rates and charging premium tax rates in excess of the premium tax rate in the policyholder's new state or municipality. Plaintiffs, the First Premium Tax Overcharge Class, and the First New York Subclass's damages include, but are not limited to, the excess premium tax charges that Defendants deducted in excess of the premium tax rate in the policyholder's current state or municipality of residence. For

example, the New York Subclass's damages will include, but are not limited to, the excess premium tax charges that Defendants deducted in excess of New York's premium tax rate of 0.7%.

74. Defendants' failure also breaches the covenant of good faith and fair dealing that is implied by law in all contracts.

75. Plaintiffs, the First Premium Tax Overcharge Class, and the First New York Subclass have performed all of their obligations under the policies, except to the extent that their obligations have been excused by Defendants' conduct as set forth herein.

76. As a direct and proximate cause of Defendants' material breaches of the policies, Plaintiffs, the First Premium Tax Overcharge Class, and the First New York Subclass have been – and will continue to be – damaged as alleged herein in an amount to be proven at trial.

THIRD CLAIM FOR RELIEF

Breach of Contract on Behalf of Plaintiffs, the Second Premium Tax Overcharge Class, and the Second New York Subclass Against Talcott and HLIC

77. Plaintiffs reallege and incorporate the allegations above as if fully set forth herein.

78. The Second Premium Tax Overcharge Class Policies and Second New York Subclass Policies are binding and enforceable contracts.

79. Defendants breached their contracts with Plaintiffs, the Second Premium Tax Overcharge Class, and the Second New York Subclass by failing to charge the appropriate premium tax rates as required under the policies. Plaintiffs, the Second Premium Tax Overcharge Class, and the Second New York Subclass's damages include, but are not limited to, the excess premium tax charges that Defendants deducted in excess of the current premium tax rate in the policyholder's state or municipality of residence.

80. Plaintiffs, the Second Premium Tax Overcharge Class, and the Second New York Subclass have performed all of their obligations under the policies, except to the extent that their obligations have been excused by Defendants' conduct as set forth herein.

81. As a direct and proximate cause of Defendants' material breaches of the policies, Plaintiffs, the Second Premium Tax Overcharge Class, and the Second New York Subclass have been – and will continue to be – damaged as alleged herein in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses pray for judgment as follows:

1. Declaring this action to be a class action properly maintained pursuant to Rule 23 of the Federal Rules of Civil Procedure;

2. Awarding Plaintiffs, the COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses compensatory damages;

3. Awarding Plaintiffs, the COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses pre-judgment and post-judgment interest, as well as any costs and attorneys' fees allowed by law; and

4. Awarding Plaintiffs, the COI Overcharge Class, the Premium Tax Overcharge Classes, and the New York Subclasses such other relief as this Court may deem just and proper under the circumstances, including without limitation reinstatement and other equitable relief for policies that lapsed or were surrendered after Defendants' breach.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs and the classes hereby demand a trial by jury as to all issues so triable.

Dated: April 6, 2026

Respectfully submitted,

/s/ Ryan Kirkpatrick

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