



1 **I. PLAINTIFF**

2 1.1 The Plaintiff is the State of Washington, Office of the Attorney General,  
3 Consumer Protection Division. The Attorney General is authorized to bring this action under  
4 RCW 19.86.080, 19.86.140, and 19.295.030.

5 **II. DEFENDANTS**

6 2.1 Defendant CLA ESTATE SERVICES, INC. (CLA ESI) is a Texas corporation  
7 with its principal executive offices located in Frisco, Texas. CLA ESI has been registered as a  
8 Washington Profit Corporation since August 30, 2010. CLA ESI's registered agent in  
9 Washington is Cogency Global Inc., at 1780 Barnes Blvd. SW, Tumwater, WA 98512.

10 2.2 Defendant CLA USA, INC. (CLA USA), a financial product affiliate of CLA  
11 ESI, is a Texas corporation with its principal executive offices located in Frisco, Texas. CLA  
12 USA has been registered as a Washington profit corporation since September 19, 2008. CLA  
13 USA's registered agent in Washington is Cogency Global Inc. at 1780 Barnes Blvd. SW,  
14 Tumwater, WA 98512. Defendant CLA USA has been licensed as an Insurance Producer with  
15 the Washington State Office of Insurance Commissioner at all times relevant to this action.

16 2.3 Defendant MITCHELL REED JOHNSON (JOHNSON) was previously an agent  
17 of CLA USA from approximately April 14, 2009, to August 11, 2016. He resides at 438 5th  
18 Street #4, Lake Oswego, Oregon 97034. Defendant JOHNSON has been licensed as a non-  
19 resident Insurance Producer with the Washington State Office of Insurance Commissioner at all  
20 times relevant to this action. He was not licensed as an Investment Advisor Representative with  
21 the Washington State Department of Financial Institutions until May 19, 2015. This action is  
22 filed against him individually and in his marital capacity.

23 2.4 Defendants CLA ESI and CLA USA (hereinafter referred to, collectively, as  
24 CLA) participated in, with knowledge approved of, or had the authority to control the acts and  
25 practices set forth in this Complaint, including the acts of Defendant JOHNSON.  
26





1 documents to be a deceptive means of obtaining asset information to generate leads for sales to  
2 senior citizens. RCW 19.295.005. It found this practice endangers the financial security of  
3 consumers and may frustrate their estate planning objectives. *Id.* It found these practices to be  
4 matters vitally affecting the public interest and enacted the Estate Distribution Documents Act  
5 to prevent the marketing of estate distribution documents, directly or indirectly, unless the person  
6 marketing the estate distribution documents is authorized to practice law in Washington.  
7 RCW 19.295.020(1).

8           5.3     Since 2009 Defendants CLA have been in the business of marketing revocable  
9 living trusts or other estate distribution documents (called “lifetime estate planning packages”)  
10 to Washington seniors, and then using financial information obtained during the sale or review  
11 of these estate planning documents to market high-commission annuities and life insurance  
12 products to these seniors. In short, Defendants have operated and continue to operate a classic  
13 trust mill scheme in Washington.

14           5.4     From approximately April 14, 2009, until approximately August 11, 2016,  
15 Defendant MITCHELL JOHNSON, a licensed insurance agent, contracted with CLA to sell  
16 insurance products to CLA clients. JOHNSON and other CLA insurance agents (hereinafter,  
17 “agents”) met with seniors who purchased CLA lifetime estate planning packages and created  
18 revocable living trusts or other estate distribution documents. These meetings typically occurred  
19 in the seniors’ homes, ostensibly to answer questions, review and identify any needed changes  
20 to estate plans, and assist with transferring assets to the senior’s revocable trust. However,  
21 JOHNSON and other agents were trained by CLA to use, and did use, all such meetings to gather  
22 financial information in order to market high-commission insurance products to the seniors in  
23 order to generate commissions for themselves and CLA.

24           5.5     Defendant JOHNSON and other CLA agents marketed complex annuity products  
25 to seniors deceptively and unfairly without full disclosure of the material terms of the policies  
26 or the costs and benefits of these policies.

1           5.6     Defendant JOHNSON misrepresented his qualifications, his certifications,  
2 licenses or registrations, and he and other CLA agents provided investment advice to seniors  
3 without being licensed or registered to sell securities or give investment advice. Although  
4 JOHNSON and CLA had seniors sign or initial various forms that purported to be an  
5 acknowledgment by the senior that CLA agents cannot offer investment advice, these  
6 disclaimers do not cure the misrepresentations these agents made.

7           5.7     Defendant JOHNSON and other CLA insurance agents marketed these insurance  
8 products to maximize the commissions they received, to the detriment of their victims.  
9 Defendant JOHNSON and other CLA agents abused seniors' trust and lack of knowledge or  
10 sophistication regarding complex financial products in order to maximize their sales and  
11 commissions at their victims' expense.

12           5.8     In some cases, Defendant JOHNSON and other CLA insurance agents induced  
13 seniors to sign annuity applications containing false information, or to sign blank documents the  
14 agent would later complete with false information in order to ensure annuity applications would  
15 pass suitability reviews and be approved by the insurance companies. Without the false  
16 information, the insurance companies would likely have rejected these annuity applications.

17 **A.     CLA induces seniors to attend free estate planning workshops without disclosing**  
18 **that the true purpose of the workshops is to market estate planning packages to**  
19 **gather information that will be used to sell annuities and other insurance products.**

20           5.9     CLA markets estate planning workshops through telemarketing, newspaper ads,  
21 and direct mail solicitations.

22           5.10    The consumers targeted by CLA's marketing are typically seniors at or near  
23 retirement age or older.

24           5.11    CLA caused "Admission Ticket" postcards to be mailed to Washington seniors.  
25 The postcards invite seniors to attend a free "Estate Planning Workshop" followed by a free  
26 meal. The postcard lists the following as topics to be covered at the free workshop: the pros and  
cons of wills and trusts, how to avoid probate, controlling distribution of your estate, avoiding

1 joint bank accounts, long-term health care concerns, tax reduction planning, and annuities and  
2 life insurance.

3 5.12 CLA also has a call center in Texas from which CLA calls seniors and invites  
4 them to estate planning workshops. In some cases, call center staff receive a \$10 bonus if a senior  
5 they called attends a workshop. During the calls, seniors are not advised that the purpose of the  
6 workshop is to market and sell CLA products.

7 5.13 CLA promotes its estate planning workshops on CLA ESI's website at  
8 claestateservices.com. The website states the workshops "educate retirees" on how to "avoid  
9 costly mistakes that cause families to lose their financial independence." The website does not  
10 indicate that the purpose of the workshops is to market estate plans or use estate plans as a pretext  
11 to learn about the senior's assets in order to market annuities and other insurance products to  
12 seniors.

13 **B. CLA presents false, deceptive, and/or misleading information in its estate planning**  
14 **workshops to evoke fear of probate and persuade seniors they need to purchase**  
15 **revocable living trusts.**

16 5.14 CLA, through its estate planning workshops and marketing of lifetime estate  
17 planning packages, illegally markets estate distribution documents by advising seniors about  
18 alleged benefits of revocable living trusts compared to probate or other estate planning devices,  
19 and by gathering information for the preparation of revocable living trusts or other estate  
20 distribution documents without being licensed to practice law in Washington.

21 5.15 CLA estate planning workshop presentations and the workbooks handed out to  
22 attendees contain deceptive or misleading statements and misrepresentations regarding probate  
23 law, federal law, and the purported legal advantages of revocable living trusts in Washington  
24 that mislead seniors into believing that they need a revocable living trust, and that a revocable  
25 living trust will necessarily and universally protect their assets, their privacy, and save time and  
26 money, regardless of their individual circumstances.

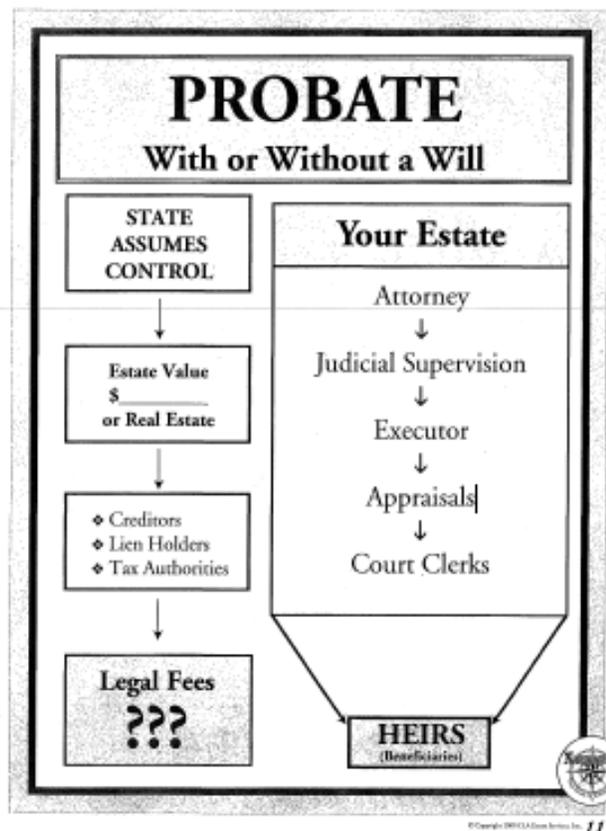
1           5.16    CLA estate planning workshop presentations and written materials handed out to  
2 workshop attendees deceptively promise seniors that by purchasing CLA’s “lifetime estate  
3 planning package,” seniors will receive lifetime free legal consultation from a CLA lawyer. One  
4 CLA brochure states “CLA only refers its clients to attorneys who have agreed to provide you  
5 with Lifetime Consultation Privileges regarding your estate planning documents.” This  
6 statement is reinforced orally during workshops, at which presenters/salespersons represent that  
7 once seniors buy a lifetime estate planning package, they will “never be charged a consultation  
8 fee” even if they need the attorney’s help “five years from now.”

9           5.17    The misrepresentations made during the workshops cause or exacerbate seniors’  
10 fear of probate and lead them to conclude they must have a revocable living trust to protect their  
11 assets. For example:

12           a.       During at least one workshop in Washington, the presenter/salesperson  
13 stated that the formal process of probate takes an average of 14 months and that in Seattle,  
14 attorneys charge close to \$700 an hour to assist with the process. In contrast, the  
15 presenter/salesperson described a revocable living trust as a failsafe way to protect estates from  
16 attorneys, creditors, and taxes. These statements misrepresent the probate process in  
17 Washington, the law related to trust and probate, and evoke unnecessary fear in seniors.

1           b.       The CLA workbook contains a page titled “PROBATE” indicating that in  
2 probate, the state assumes control; creditors, lien holders, and tax authorities are paid first; the  
3 process requires attorneys, judicial supervision, an executor, appraisals, and court clerks; and  
4 heirs come last. During at least one workshop in Washington, the presenter/salesperson  
5 reinforced these concepts by representing orally that in probate the State “freezes your assets.”

6 He then explained that creditors are first  
7 in line to get assets, followed by  
8 lienholders, tax authorities, legal fees,  
9 and “your family gets what is left.” He  
10 represented that this is “all avoidable  
11 with a revocable living trust.” These  
12 statements misrepresent the probate  
13 process in Washington, mislead  
14 consumers into believing that the  
15 probate process reduces assets available  
16 to heirs in ways that can be avoided with  
17 a revocable living trust, and deceptively  
18 suggest that payments toward creditors,  
19 taxes, legal fees, and appraisals are  
20 necessarily avoided with a revocable  
21 living trust.



22           c.       The CLA workbook contains a page titled “HOW MUCH DOES  
23 PROBATE COST?” The page contains quotes that purport to be from authorities such as “Elder  
24 Law Solutions” and “AARP Consumer Affairs Section” indicating that the cost of probate is 7  
25 percent or more of the gross value of an estate. During at least one workshop in Washington, the  
26 presenter/salesperson stated that 7 percent of a \$100,000 estate would amount to \$7,000 but a

1 living trust would cost less than half that amount. These statements overstate the general cost of  
2 probate administration in Washington, misrepresent the cost of revocable trust administration as  
3 necessarily less than probate, and deceptively imply that Washington has a percentage-based  
4 statutory fee schedule for probate that increases with the size of the estate.

**HOW MUCH DOES PROBATE COST?**

Critics of the system have cited that the average cost of probate is usually MORE THAN 7% of the gross value of the estate.  
*Elder Law Solutions*

An attorney's fee, combined with a personal representative fee, can deplete an estates value by 5-6% OR MORE.  
*AARP Consumer Affairs Section*

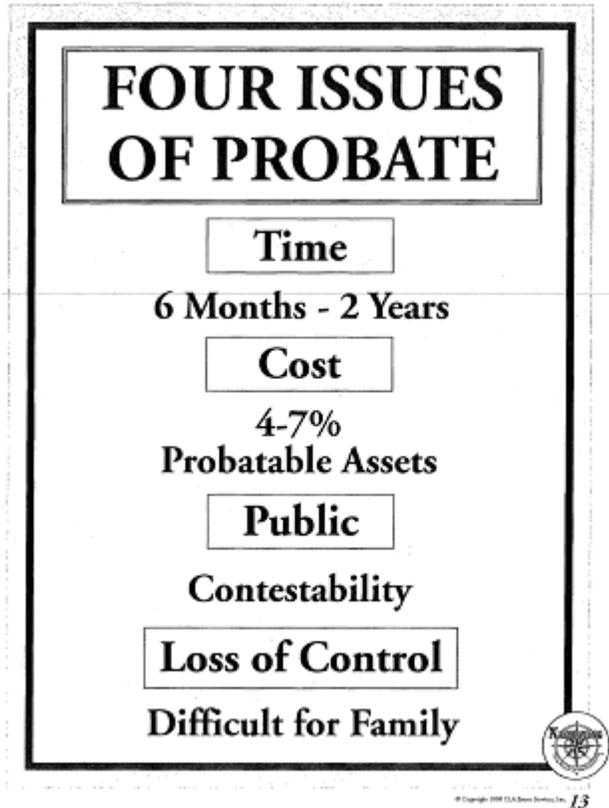
The cost of probate includes attorney fees, executor fees, filing fees, appraiser fees, and other charges. As a rule of thumb, the TOTAL COST APPROXIMATES 4-6% of the value of the assets that are being probated.  
*Beyond the Grave - Gerald Condon*

No matter what the cost, it really is a shame so many families go through this when GOOD PLANNING COULD ALLOW THEM TO AVOID IT ALTOGETHER.  
*Charles Loper, Jr.  
CLA Estate Services, Inc.  
Founder/CEO*

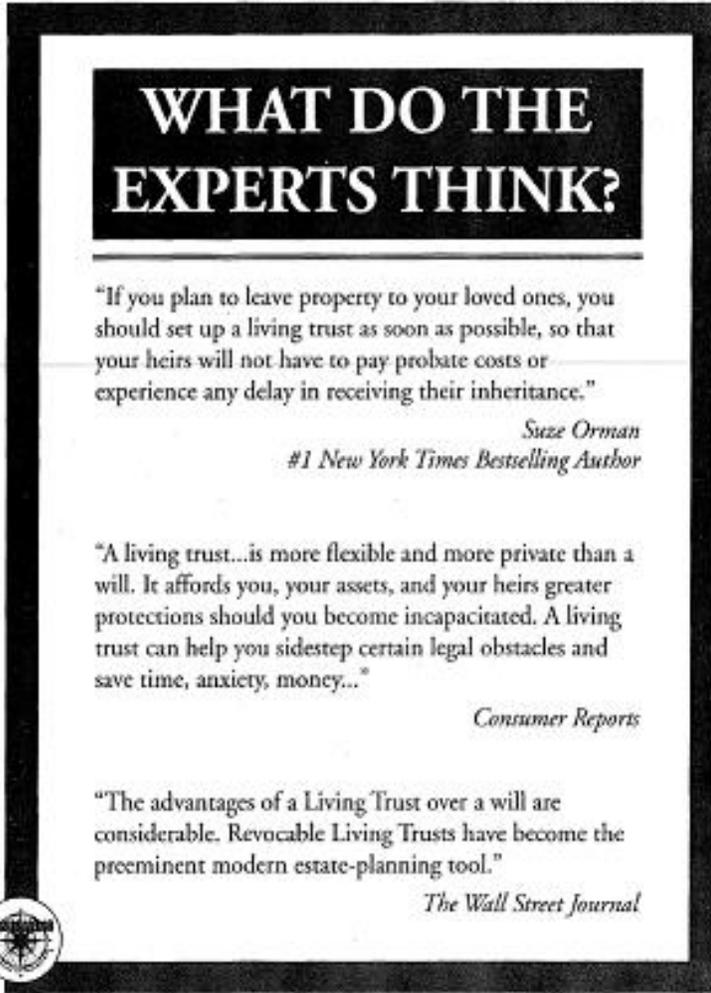
**WHO KNOWS?**

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1 d. The workbook contains a page titled "FOUR ISSUES OF PROBATE."  
2 The first issue listed is "Time," and the  
3 workbook states that probate takes six months  
4 to two years. The second issue listed in the  
5 workbook is "Cost," and the workbook states  
6 that the cost will be 4 to 7 percent of probatable  
7 assets. The third issue listed is "Public."  
8 During at least one workshop in Washington,  
9 the presenter/salesperson stated that, in  
10 probate, information about the estate becomes  
11 public and may be published online at  
12 ancestry.com. The presenter/salesperson  
13 stated that a revocable living trust is private  
14 and will never be "published at the  
15 courthouse." The fourth issue listed in the  
16 workbook is "Loss of Control," which the workbook states is "Difficult for Family." These  
17 statements misrepresent the trust and probate process in Washington, and among other things,  
18 deceptively imply that probate necessarily takes longer and is more costly to administer than  
19 revocable trusts, that trust administration cannot be contested or become public, and that probate  
20 necessarily restricts control that can be preserved with a revocable trust.  
21  
22  
23  
24  
25  
26



1 e. The workbook lists quotes from “experts” such as Suze Orman, Consumer  
2 Reports, and the Wall Street Journal opining that a living trust is more advantageous than a will.



3 Another page containing  
4 quotes from purported  
5 “experts” in the workbook  
6 says: “*Your right to create a  
7 Living Trust is guaranteed  
8 by the United States  
9 Constitution. It would  
10 require a constitutional  
11 amendment to outlaw a  
12 trust.*” These quotes are either  
13 false, or deceptively and  
14 misleadingly suggest that a  
15 revocable living trust is  
16 superior in all instances, and  
17 that these “experts” quotes  
18 are correct and relevant under  
19 Washington law.

f. The workbook includes a page titled “YOU DECIDE” that consists of a table comparing wills and trusts. According to the chart, a will necessarily results in state/court

<b>YOU DECIDE</b>	
<b>YOUR WILL</b>	<b>YOUR TRUST</b>
	
Begins at Death	Begins TODAY
State/Court Control	You Control
Public	Private
Average One Year to Settle	Assets Available Immediately
Family Vulnerable to Probate	Family Protected
<b>WORRY</b>	<b>PEACE OF MIND</b>

*In a moment of decision, the best thing you can do is the right thing to do. The worst thing you can do is nothing.*  
Theodore Roosevelt

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control, is public, takes an average of one year to settle, and leaves the family “vulnerable to probate.” A trust, in contrast, is represented as being controlled by the consumer, private, allowing assets to become available immediately, and leaves the family protected. The word “WORRY” summarizes the will column, while “PEACE OF MIND” summarizes the trust column. The following quote, purporting to be from Theodore Roosevelt, appears at the bottom of the page: “In a moment of decision, the best thing you can do is the right thing to do.

The worst thing you can do is nothing.” These statements evoke a sense of fear and urgency, and misrepresent the probate process and the relative benefits of revocable living trusts in Washington.

g. The workbook presents a summary table comparing estate planning alternatives (intestate, payable on death, joint tenancy, will, properly funded living trust) on whether they avoid probate, avoid guardianship, maximize tax savings, provide family privacy, and prevent attachment of beneficiary's assets. With the words "Yes," "No," and "Sometimes," the table purports to indicate which of these benefits applies to each estate planning alternative. The word "Yes" appears in the table only in relation to a "Properly Funded Living Trust," and indicates that every listed benefit applies only to living trusts and is always available with a living trust. This table misrepresents Washington law, Washington probate process, and the

<b>Estate Planning Alternatives</b>					
	<b>Intestate (No Plan)</b>	<b>Payable on Death (POD)</b>	<b>Joint Tenancy</b>	<b>Will</b>	<b>Properly Funded Living Trust</b>
<b>Avoids Probate</b>	No	Sometimes	Sometimes	No	Yes
<b>Avoids Guardianship (Conservatorship)</b>	No	No	No	No	Yes
<b>Maximizes Tax Savings</b>	No	No	No	No	Yes
<b>Provides Family Privacy</b>	No	Sometimes	Sometimes	No	Yes
<b>Prevents Attachment of Beneficiary's Assets</b>	No	No	No	No	Yes

**WHICH SHOULD YOU CHOOSE?**

**1-888-404-6848**  
**www.claestateservices.com**

relative benefits of revocable living trusts in Washington.

h. The workbook concludes with a section titled "Questions and Answers: Understanding Estate Planning" and is subtitled "How to Avoid Probate, Protect from Guardianship, Save Taxes, and, Achieve Peace of Mind." The questions and answers have the capacity to deceive consumers into believing that revocable living trusts are superior to other estate planning

1 devices in all circumstances and will always preserve assets, protect privacy and control, and  
2 save time and money over other estate planning documents. These statements misrepresent the  
3 probate process and the relative benefits of revocable living trusts in Washington, and leave the  
4 net impression that every consumer needs a living trust and that probate must be avoided at all  
5 costs.

6 5.18 In Washington, revocable living trusts are not necessarily private, or administered  
7 in less time than probate; they do not necessarily avoid or reduce taxes; and they are not  
8 necessarily less expensive than probate. Moreover, Defendants' conveying to consumers that  
9 estate planning is a "one size fits all" product without regard to individual circumstances is  
10 misleading and deceptive.

11 5.19 The presenters/salespersons at CLA estate planning seminars are not attorneys,  
12 and they are not employed by attorneys licensed to practice law in the state of Washington. And  
13 although they may represent orally and in writing that they are "not lawyers" and "not giving  
14 legal advice," these disclaimers do not diminish the deceptive net impression they have conveyed  
15 about Washington trust and probate law to seniors during the workshops.

16 **C. CLA concludes estate planning workshops with one-on-one meetings designed to**  
17 **sell CLA's lifetime estate planning packages.**

18 5.20 During workshop presentations touting the purported advantages of revocable  
19 living trusts and the disadvantages of probate, CLA workshop presenters/salespersons offer to  
20 meet one-on-one with seniors for a "complimentary review of your personal situation," either  
21 immediately following the workshop or later at the senior's home. The purpose of the one-on-  
22 one meetings with workshop attendees is to sell the CLA lifetime estate planning package. The  
23 presenter/salesperson further entices seniors to meet privately one-on-one by offering them a  
24 discount, such as a \$500 credit on a lifetime estate planning package costing between \$2,445 and  
25 \$3,145.  
26

1           5.21    CLA encourages and trains its presenters/salespersons to set up one-on-one  
2 meetings with workshop attendees as soon as possible after the workshop to minimize the time  
3 the seniors would have to think and analyze information about the purchase, talk with family,  
4 friends, or an independent attorney and potentially decide not to buy the CLA package.  
5 Defendants CLA’s training materials for their presenters/salespersons describe the reasons why  
6 seniors cancel their purchase of the lifetime estate planning packages. “They talk to a **THIRD**  
7 **PARTY KILLER!** Kids, Financial Advisor, Lawyer, Brother, etc....**The most important**  
8 **conversation is the one we are not present for.**” Defendants know that when seniors have to  
9 arrange meetings, or travel to a professional office to complete transactions, they are more likely  
10 to discuss their plans or transactions with relatives or friends and may not follow through with  
11 the purchase.

12           5.22    After the workshop presentation, seniors receive a free lunch at a restaurant with  
13 the presenter/salesperson. Receiving something of value such as a free lunch can create a sense  
14 of obligation to reciprocate, especially for seniors, making them more vulnerable to Defendants’  
15 deceptive and misleading representations. During lunch, the presenter/salesperson attempts to  
16 get as many seniors as possible to sign up for one-on-one meetings.

17           5.23    The CLA lifetime estate planning package purports to include a referral to an  
18 “independent attorney” to prepare legal documents (wills, trusts, durable powers of attorney,  
19 etc.); assistance to the senior following execution of estate plan documents with tasks related to  
20 managing the estate plan; a binder in which the senior can organize and record information for  
21 use by family members in the event of his or her incapacitation or death; an in-person review  
22 with CLA 90 days after the estate planning documents are executed; annual in-person reviews  
23 with CLA for as long as the estate plan is in effect; and, after a death, in-person assistance to  
24 survivors to help with estate settlement. In fact, an underlying purpose of the estate planning  
25 package is to create a mechanism for gaining access to a senior’s financial information for later  
26 use in selling the senior high-commission insurance products.

1           5.24    CLA presenters/salespersons represent to seniors that by purchasing the CLA  
2 lifetime estate planning package, they will receive lifetime free consultation services from the  
3 CLA referral attorney, and pay a minimal fee (in most cases, \$25) for future minor changes to  
4 their trust.

5           5.25    CLA presenters/salespersons dissuade seniors from consulting with their own  
6 attorneys by pointing out that other attorneys have not agreed to provide free lifetime  
7 consultations and will charge high hourly fees to answer questions, make changes in their  
8 documents, and assist with estate settlement. At least one CLA presenter represented that lawyers  
9 in Seattle charge \$700 per hour on average.

10          5.26    When a senior agrees to attend a one-on-one meeting, the CLA  
11 presenter/salesperson again emphasizes the purported benefits of a revocable trust over probate  
12 and misrepresents Washington law. In some cases, the CLA presenter/salesperson advises the  
13 senior that his or her current estate planning documents will not protect his or her assets or family  
14 and attempts to convince the senior that he or she needs new documents, including a revocable  
15 living trust.

16          5.27    CLA presenters/salespersons are typically required to pay for their own travel  
17 and expenses for the workshops and are not paid for their time. However, they receive a \$600-  
18 \$800 commission from CLA for each lifetime estate planning package they sell. Pursuant to  
19 contracts they sign with CLA, presenters/salespersons are required to average at least 2.5 estate  
20 planning package sales per seminar. CLA encourages them to make six estate planning package  
21 sales per week. This creates a strong incentive for presenters/salespersons to sell CLA packages  
22 to as many workshop attendees as possible as quickly as possible without regard to any senior's  
23 individual financial circumstances.

24          5.28    CLA presenter/salespersons attempt to sell CLA packages to all seniors who  
25 agree to a one-on-one meeting regardless of their individual circumstances. Some of the seniors  
26 attending CLA seminars live solely on Social Security, Social Security disability payments, or

1 other small fixed incomes, and have few assets. In some cases, seniors cannot afford to pay for  
2 the CLA package. CLA offers financing agreements that allow these seniors to make payments  
3 over time if they cannot pay for the entire package at once.

4 5.29 The cost of the CLA lifetime estate planning packages ranges from approximately  
5 \$2,445 to \$2,645 after a “discount” (ranging from \$300 to \$500) is provided to workshop  
6 attendees to encourage them to purchase the package. CLA also sells a lifetime package to  
7 seniors who already have revocable living trusts, as the package provides them with annual  
8 meetings with CLA agents, purportedly to ensure their revocable trust documents are up to date.  
9 However, the true purpose of the lifetime package is to provide CLA access to seniors’ financial  
10 information that will be used to sell them high-commission annuities and other insurance  
11 products. The package for those who already have a revocable living trust usually costs about  
12 \$1,195.

13 5.30 The presenter/salesperson instructs seniors who purchase the CLA package to  
14 write a separate check, ranging in amount from approximately \$550 to \$650, to a CLA referral  
15 attorney who will prepare a revocable living trust and other estate distribution documents, and  
16 will prepare up to two real estate deeds to transfer property into the living trust.

17 5.31 After completing the sale of an estate planning package, the presenter/salesperson  
18 collects information from the senior regarding their assets, intended beneficiaries, how they want  
19 their assets distributed, and any particular requirements such as a special needs trust. They insert  
20 or have the senior insert the information gathered into forms that are conveyed to the referral  
21 attorney for the preparation of estate distribution documents. Some or all of this information is  
22 mailed or conveyed through the use of iManager or other document management or retrieval  
23 systems, which the referral attorney can access with a password provided by CLA.

24 5.32 CLA encourages its presenters/salespersons to telephone each senior who  
25 purchased the package on the evening of the purchase to answer any questions. The purpose of  
26

1 this call is to ensure the senior will not cancel the purchase. If a consumer cancels a purchase,  
2 the presenter/salesperson will lose the commission on the sale of the estate planning package.

3 5.33 CLA presenters/salespersons who conduct the one-on-one meetings are not  
4 attorneys, nor are they hired by attorneys. Upon information and belief, none of CLA's  
5 presenters/salespersons are employed by the referral attorney who subsequently prepares estate  
6 distribution documents.

7 **D. CLA deceives seniors into believing that the CLA referral attorney will provide**  
8 **individualized legal analyses of their needs and lifetime free legal consultation**  
9 **services that other lawyers will not provide.**

10 5.34 Seniors' contact with a CLA referral attorney takes place only after they purchase  
11 a CLA lifetime estate planning package.

12 5.35 Although CLA's written material and oral representations describe the referral  
13 attorney as "independent," CLA salespersons and agents represent to consumers that they are  
14 "the arms and legs" of the attorney, they gather from the senior the information necessary to  
15 prepare the estate distribution documents, and they share that information with a CLA referral  
16 attorney, who uses it to create a revocable living trust. CLA agents often obtain necessary  
17 signatures on the estate distribution documents that the attorney has prepared. CLA trains its  
18 sales staff to maintain an open line of communication with the attorney who works with CLA's  
19 clients, for "keeping deals together."

#### 20 Communications with Client Services / Attorney

21 You must have an open line of communication with the people that work  
22 with your clients. Don't be afraid to talk to the attorney and make sure your  
23 Client Service Coordinator knows to keep you in the loop. These people  
24 are the key to ongoing communications and will be a valuable asset in  
25 keeping deals together. Stay in the loop.

26 5.36 CLA and its agents advise seniors that a lifetime estate planning package includes  
consultation with a referral attorney who will evaluate their individual situation and provide a  
legal analysis of their needs.

1           5.37    CLA and its agents also advise seniors orally and in marketing materials that the  
2 seniors will receive free lifetime consultation with an attorney, and that the attorney will make  
3 future minor changes to the trust for \$25.

4           5.38    In fact, many seniors who purchase packages from CLA have minimal contact  
5 with the referral attorney, and they are already predisposed and conditioned by CLA’s  
6 misrepresentations at the workshops and one-on-one meetings to believe that they need  
7 revocable living trusts to adequately protect their assets and their families.

8           5.39    Despite representations by CLA agents and promotional materials promising free  
9 lifetime consultation, CLA referral attorneys may not have agreed to do so. Some referral  
10 attorneys are unaware that CLA has promised this service to CLA clients. When some CLA  
11 clients requested additional attorney services, they were told they would need to pay for those  
12 services at higher cost than CLA promised. For example, one elderly CLA client needed  
13 documents prepared to change the order of the power of attorney in his living trust and to remove  
14 his wife’s name from their house deed as they were applying for Medicaid to pay for her care.  
15 The CLA referral attorney charged the client \$1,000 to prepare these documents.

16 **E.    Defendants misrepresent the purpose of “review” meetings with consumers, which**  
17 **are designed to provide a mechanism for identifying assets that can be used to**  
18 **purchase high-commission annuities and other insurance products.**

19           5.40    After a senior purchases a CLA lifetime estate planning package and a referral  
20 attorney drafts living trust and other estate distribution documents, a CLA insurance agent  
21 conducts an initial meeting with the senior. These CLA agents are typically independent  
22 contractors for CLA USA, the financial product affiliate of CLA Estate Services, and are  
23 licensed to sell insurance in Washington. In some cases, Defendant JOHNSON conducted these  
24 meetings. The purpose of this initial meeting is ostensibly to deliver and explain the estate  
25 distribution documents, notarize signatures on the documents, and collect additional information  
26 about the senior’s assets. CLA refers to these insurance agents as “reviewers.”

1           5.41    At this initial meeting with the senior, the CLA insurance agent collects additional  
2 information about the senior's assets, ostensibly to ensure the assets are transferred to the  
3 revocable living trust. In at least some cases, the asset information was entered into a software  
4 program called Road of Retirement, a sales tool designed to convince seniors to liquidate their  
5 assets to purchase annuities or life insurance.

6           5.42    CLA trains its agents to use information collected during this asset inventory to  
7 discuss the senior's current investments and to attempt to sell the senior annuities and life  
8 insurance products CLA offers.

9           5.43    A CLA agent, in some cases Defendant JOHNSON, would meet again with the  
10 senior 90 days later, ostensibly to check the senior's progress in transferring assets to the living  
11 trust and to answer any questions that have arisen since the first meeting. In fact, CLA insurance  
12 agents use this meeting as another opportunity to attempt to sell annuities and other insurance  
13 products to the senior.

14          5.44    The CLA lifetime estate planning packages include annual reviews, whereby a  
15 CLA agent, in some cases Defendant JOHNSON, would meet annually with the senior. The  
16 ostensible purpose of these annual meetings is to ensure the estate planning documents are up to  
17 date and to determine whether any changes to the living trust are required. In fact, as with the  
18 other meetings, CLA agents use this meeting to identify additional assets and attempt to sell  
19 annuities and life insurance products to the senior. Seniors have complained they felt pressured  
20 in every meeting they had with a CLA agent to purchase annuities or life insurance.

21          5.45    At each periodic review meeting, including the 90-day and annual review  
22 meetings, CLA requires its agents to complete a form detailing a complete list of the senior's  
23 assets. This form enables CLA agents to find out if any investments (such as certificates of  
24 deposit, mutual funds, individual retirement accounts, stock funds, or insurance) have been  
25 cashed so that the money can be invested in annuities or life insurance products sold by CLA  
26 and its agents.

1           5.46   CLA and its agents instruct seniors to have their families contact CLA  
2 immediately when the client dies, ostensibly so that CLA can assist heirs with settlement issues  
3 related to the estate. In fact, CLA trains its agents to use this settlement meeting to find out  
4 whether there are death benefit proceeds or other assets to invest in a new annuity or life  
5 insurance policy. For example, Defendant JOHNSON met with the widow of a CLA client  
6 shortly after her husband died and advised her to request the death benefit from an Old Mutual  
7 annuity JOHNSON had sold her husband the previous year. He advised her to invest the total  
8 death benefit of \$498,756.66 in a new Forethought annuity. CLA had received a commission of  
9 \$40,147.51 for selling the initial annuity and an additional \$47,381.88 for the annuity in which  
10 the death benefit was invested. JOHNSON received commissions of \$12,044.25 and \$14,167.18  
11 for the sales of the annuities.

12           5.47   CLA trains its agents to use all periodic meetings with seniors as opportunities to  
13 market annuities and other high-commission insurance products. CLA pressures agents to meet  
14 with as many seniors as possible in order to have more opportunities to market and sell its  
15 products. CLA expects its agents to sell its products at every meeting regardless of consumer  
16 need.

17           5.48   CLA represents that as part of the lifetime estate planning package, CLA agents  
18 will meet with the senior annually to review their estate distribution documents to ensure they  
19 are up to date. However, if the agents discover the senior does not have assets he or she can  
20 invest in insurance products, the annual review meetings are sometimes discontinued by CLA,  
21 or are conducted by phone rather than in person.

22           5.49   CLA informs new agents in orientation that they will be able to meet with a large  
23 number of seniors and generate a significant commission income. CLA agents' compensation is  
24 structured to ensure that they will be motivated to aggressively sell annuities and other insurance  
25 products during their reviews, rather than spend much time reviewing the senior's estate plan.  
26 Pursuant to CLA's fee and commission structure, agents are paid approximately \$25 for the

1 initial meeting with seniors to deliver estate distribution documents. Agents receive  
2 approximately \$10 for each 90-day review, annual review, service package review or death  
3 settlement review conducted. The agents are required to pay their own travel expenses and often  
4 drive hundreds of miles to meet with the seniors. By far the largest portion of agents'  
5 compensation is in the form of commissions, which agents receive for every annuity or life  
6 insurance product sold to seniors. These commissions are typically split between the agent and  
7 CLA, with CLA receiving approximately 70% and the agent receiving the remainder. Some  
8 examples include, but are not limited to:

9           a.       Defendant JOHNSON convinced a recently widowed woman to liquidate  
10 \$619,631.19 that she had in stocks and an IRA, and invest that money into two annuities. CLA  
11 received commissions of \$46,472.34 and Defendant JOHNSON received commissions of  
12 \$13,941.71 for these sales. At each of the next three yearly reviews, Defendant JOHNSON  
13 advised the widow to surrender the annuities he had originally convinced her to purchase, and  
14 invest in another annuity he recommended so as to generate even more commissions for himself  
15 and CLA.

16           b.       Another CLA agent sold six annuities to an elderly couple over a three-  
17 year period after they purchased the CLA lifetime estate plan. The agent initially sold three  
18 annuities with total premiums of \$219,030.10 to the couple. CLA received commissions of  
19 \$18,056.70 and the agent received \$5,449.60 for these sales. The husband died three years later,  
20 and eleven days after his death, the agent met with the widow and convinced her to invest the  
21 death benefits from the previous annuity sales as well as other money she had in savings into  
22 three annuities with total premiums of \$551,521.50. CLA received commissions of \$36,522.40  
23 and the agent received \$10,956.72.

24           c.       A CLA regional manager berated a recently hired CLA agent for  
25 explaining to a senior couple how they could cancel the sale of an annuity by Defendant  
26 JOHNSON after the agent became concerned an annuity was not appropriate for the couple. The

1 CLA manager pointed out to the agent that if the couple had cancelled the annuity purchase CLA  
2 would have lost an \$8,000 commission and Defendant JOHNSON would have lost a \$4,000  
3 commission.

4 5.50 CLA's Independent Contractor Agreement requires its agents to hold at least six  
5 meetings with clients per week, and to collect an average of \$240,000 in premiums for annuities  
6 or life insurance policies sold per month. Dropping below these levels subjects the agent to  
7 having his or her employment contract terminated.

8 5.51 CLA rewarded JOHNSON and other agents working on its behalf and  
9 incentivized their deception and misrepresentation by providing bonuses, travel, and other  
10 awards to them for selling the most products to Washington consumers. Defendant JOHNSON  
11 was a top salesperson for CLA USA. From April 14, 2009, to August 11, 2016, Defendant  
12 JOHNSON made \$273,743.46 in commissions, and CLA made \$930,620.00 in commissions  
13 from Defendant JOHNSON's Washington sales alone. CLA rewarded Defendant JOHNSON'S  
14 deceptive sales practices through recognition and awards. At least once, he received an "Agent  
15 of the Month" award.

16 **F. Defendants failed to disclose material details about the annuities they market and**  
17 **sell, including the existence of surrender penalties.**

18 5.52 The primary product CLA sells seniors is indexed deferred annuities with a 10-  
19 year surrender penalty.

20 5.53 In order to create commissions for themselves, CLA agents, including Defendant  
21 JOHNSON, convince seniors to invest their money in illiquid investments such as indexed  
22 deferred annuities with 10-year surrender penalties. In many cases, the seniors need these funds  
23 for living expenses.

24 5.54 A deferred annuity is a policy purchased with a lump sum (single premium) or  
25 payments over time (flexible premium). The consumer does not begin to receive payments from  
26 the annuity until after a lengthy deferral period. During the deferral period, consumers are

1 prohibited from withdrawing more than a nominal amount of the annuity's value in any given  
2 year without incurring surrender penalties. If additional funds are withdrawn before the surrender  
3 period expires, high surrender charges typically apply. The surrender penalties are as high as 9  
4 to 10 percent of the withdrawal amount if more than a nominal amount of funds are withdrawn  
5 from the annuity within the first several years.

6 5.55 An indexed deferred annuity is tied to a financial index (e.g., the S&P 500).

7 5.56 An indexed deferred annuity typically uses complex formulas that are extremely  
8 difficult for consumers to understand. In fact, CLA clients often do not understand the complex  
9 financial products CLA agents sell to them.

10 5.57 Indexed deferred annuities with longer surrender periods and higher surrender  
11 charges pay very high commissions to the insurance agents who sell them, compared to more  
12 consumer-friendly annuities (e.g. those with lower surrender charges and shorter surrender  
13 periods). The insurance companies that sell the indexed deferred annuities that Defendants  
14 market to CLA clients pay very high commissions to the agents and CLA, typically 8 to 10  
15 percent of the premium amount invested.

16 5.58 Defendants, including Defendant JOHNSON, misrepresented or failed to  
17 adequately disclose to seniors that deferred annuities are long-term investments and that seniors  
18 will incur substantial surrender penalties if they withdraw more than a nominal amount of the  
19 money from the annuities within the first several years after the annuity purchase. Although  
20 Defendants have seniors sign or initial forms purporting to acknowledge that CLA and/or its  
21 agents have disclosed these surrender penalties, these forms do not cure the deceptions and  
22 omissions made by CLA and its agents, including Defendant JOHNSON. Likewise, Defendants'  
23 use of Annuity Suitability Acknowledgement Forms or Replacement Forms do not cure  
24 Defendants' misrepresentations or failures to disclose material information in the course of  
25 marketing and selling the annuities.

1           5.59    CLA agents, including Defendant JOHNSON, warned seniors not to talk to any  
2 financial advisers who may have previously assisted them with investments because they know  
3 the likely result will be cancellation of a sale.

4           5.60    As a result of Defendants' misrepresentations or failure to disclose material  
5 information, many seniors have incurred, and will continue to incur, substantial surrender  
6 penalties when they withdraw funds to pay for necessary living expenses. Some examples  
7 include, but are not limited to, the following:

8           a.       A 69-year-old senior moved over \$600,000 in retirement savings held in  
9 IRAs and stocks to ING annuities based on advice from Defendant JOHNSON, who told her that  
10 he was a certified financial adviser with expertise in financial planning and long-term care. After  
11 falsifying her ING application by including assets she did not have, JOHNSON failed to advise  
12 her of the surrender penalties and tax consequences she would incur as a result of withdrawing  
13 funds from the ING annuity prematurely. She was ultimately charged over \$37,500 in surrender  
14 penalties for withdrawals she made to pay her living expenses and to help her family.

15           b.       Defendant JOHNSON convinced a man in his sixties to withdraw most of  
16 his retirement savings in a Longshoreman's credit union account and invest the money instead  
17 in an ING annuity. Three years later, when JOHNSON would not lose his commission from the  
18 sale of the ING annuity, JOHNSON convinced the senior to take all of the money out of the ING  
19 annuity and invest it in a Forethought annuity. JOHNSON failed to disclose to the senior that  
20 he would be charged a \$5,087 surrender penalty for the early withdrawal from the ING annuity.  
21 JOHNSON misrepresented the senior's assets in the Forethought application by claiming that he  
22 had \$198,000 in securities that he did not have. In addition to the \$5,087 surrender penalty, the  
23 senior has lost thousands of dollars in surrender penalties for withdrawals he had to take from  
24 the Forethought annuity.

25           c.       A 65-year-old senior was convinced by Defendant JOHNSON to move  
26 all of her retirement savings, consisting of \$296,151, into ING annuities. Later, JOHNSON

1 persuaded her to withdraw money from one of those ING annuities to purchase another annuity  
2 with Forethought. These transactions resulted in ING charging a surrender penalty of over  
3 \$20,000.00 that Johnson failed to disclose to her.

4 d. Defendant JOHNSON convinced an elderly couple to liquidate an annuity  
5 they had purchased from another agent to invest in an ING annuity. The couple was charged  
6 \$5,265 for withdrawing the money. Two years after selling them the ING annuity, JOHNSON  
7 advised the couple to withdraw all of the money from the ING annuity to invest in a Forethought  
8 annuity. ING charged a \$6,839 surrender penalty for the withdrawal. JOHNSON made  
9 numerous misrepresentations in the Forethought annuity application to pass the insurance  
10 company's suitability review, including stating that the money for the Forethought premium  
11 came from the couple's checking account and failing to disclose that the money came from a full  
12 liquidation of the ING annuity JOHNSON had sold them two years earlier. Forethought charged  
13 the couple a surrender penalty of \$10,750 when they later had to withdraw all of the money to  
14 pay for assisted living care.

15 5.61 As the above examples show, Defendant JOHNSON, under the supervision of  
16 CLA, advised seniors to surrender annuities JOHNSON previously recommended, and to  
17 reinvest the proceeds in other annuities with a different insurance company. Defendant  
18 JOHNSON failed to disclose the substantial surrender penalties consumers would incur as a  
19 result of churning annuity products in this manner. This practice generated additional lucrative  
20 commissions for Defendants and unfairly deceived consumers into agreeing to transactions at  
21 substantial cost.

22 5.62 Seniors in particular are vulnerable to the risks posed by the type of deferred  
23 annuities Defendants market because these annuities tie up their money for lengthy periods  
24 (typically ten years), making it unavailable to pay living or medical expenses, or for assisted  
25 care, without incurring substantial surrender penalties. CLA unfairly took advantage of a  
26

1 substantial number of consumers by marketing these products without adequately disclosing and  
2 explaining these risks.

3 5.63 Some CLA clients invested a substantially greater percentage of their assets in  
4 annuities sold to them by CLA agents than suggested by the insurance companies' guidelines for  
5 the maximum percentage of assets that should be invested in annuities. For example, a recently  
6 retired man who owned a house valued at about \$120,000, a small life insurance policy, and  
7 about \$100,000 in cash and CDs was persuaded to invest \$80,000 in a deferred annuity with a  
8 10-year surrender penalty. Defendant JOHNSON misrepresented the CLA client's assets in the  
9 annuity application to have the annuity sales approved.

10 **G. Defendant JOHNSON, on his own behalf and on behalf of CLA, misled consumers**  
11 **about his credentials and falsified insurance applications to qualify consumers for**  
12 **annuities that would generate high commissions.**

13 5.64 Defendant JOHNSON, on his own behalf and on behalf of CLA, misled  
14 consumers by introducing himself to CLA clients as a Registered Investment Advisor, Broker,  
15 and Certified Financial Planner. He claimed to have 32 years in investment and estate planning  
16 with expertise in financial planning and long-term care, causing consumers to believe he had  
17 their best interests in mind. In fact, JOHNSON was not licensed as an Investment Advisor with  
18 the Washington State Department of Financial Institutions during the time period he made these  
19 misrepresentations to CLA clients.

20 5.65 Defendant JOHNSON and other CLA agents, on their own behalf and on behalf  
21 of CLA, misled consumers by not disclosing to CLA clients that they received commissions for  
22 selling annuities. Even when asked how he was paid, JOHNSON told clients that he was paid  
23 by CLA, which misled consumers.

24 5.66 Defendant JOHNSON and other CLA agents, on their own behalf and on behalf  
25 of CLA, falsified insurance applications for CLA clients without their knowledge in an attempt  
26 to qualify them for insurance products for which they may not otherwise qualify. In some cases,  
JOHNSON would instruct consumers to sign or initial application documents that were not

1 completely filled out and would then complete the application later without showing the final  
2 document to the consumer. For example:

3 a. Defendant JOHNSON stated on an application for an ING annuity that a  
4 senior had \$258,000 in checking and savings accounts and had \$2,800 in monthly expenses. In  
5 fact, the senior had about \$25,000 in her checking account at the time, and monthly expenses of  
6 approximately \$3,800. For the same senior, Defendant JOHNSON later misrepresented on an  
7 application for a Forethought annuity that the senior had over \$300,000 in securities and  
8 \$785,000 in liquid assets. In fact, the senior had no securities and had only \$40,000 in liquid  
9 assets.

10 b. Defendant JOHNSON misrepresented a senior's assets on a Forethought  
11 application as including a secondary residence worth \$215,000 and liquid assets worth \$588,000.  
12 In fact, the senior had no house or real estate other than her mobile home and land where she  
13 was living, and liquid assets equal to about half of what JOHNSON represented.

14 c. Defendant JOHNSON misrepresented a couple's net worth by hundreds  
15 of thousands of dollars in a Forethought application by claiming they had \$400,000 in sales  
16 proceeds from their house, which they did not have; and a secondary residence worth \$150,000,  
17 which they did not have; and \$515,000 in liquid assets when they only had \$10,000.

18 d. Defendant JOHNSON misrepresented in an ING application that a senior  
19 had \$148,764 in retirement accounts and \$200,000 in other assets the senior did not have. Three  
20 years later, JOHNSON convinced him to take his money out of the ING annuity and invest it in  
21 a Forethought annuity. This time, JOHNSON misrepresented the senior as having \$198,000 in  
22 securities even though the senior did not have any securities.

23 e. Defendant JOHNSON submitted one or more annuity applications to  
24 CLA purporting to have the senior applicant's signature, which the senior claimed not to have  
25 signed.



1           6.3     Defendants' written materials and oral statements to Washington consumers contain  
2 numerous deceptive and/or misleading statements and misrepresentations regarding probate law,  
3 trust law, federal law, and the relative advantages of revocable living trusts in Washington. These  
4 misrepresentations and deceptions include, but are not limited to:

5           a.     Creating a false sense of urgency causing seniors to believe their assets will  
6 be at risk if they do not act quickly to create a revocable living trust;

7           b.     Misrepresenting, directly or by implication, probate costs as a percentage of  
8 the estate;

9           c.     Misrepresenting, directly or by implication, that trusts are necessarily  
10 private matters that cannot be contested or be made public, and that all or most of probate is  
11 necessarily public;

12           d.     Misrepresenting, directly or by implication, probate as reducing the family's  
13 control over assets, and/or reducing the assets available to heirs, in ways that can be avoided with a  
14 revocable trust;

15           e.     Misrepresenting, directly or by implication, the time required to administer  
16 probate as necessarily longer than the time required to administer revocable trusts;

17           f.     Misrepresenting, directly or by implication, revocable trusts as protecting  
18 the family's assets from creditors;

19           g.     Misrepresenting, directly or by implication, probate as a necessarily  
20 emotionally difficult process that makes the family vulnerable;

21           h.     Misrepresenting, directly or by implication, that taxes will necessarily be  
22 avoided or reduced by creating a revocable trust;

23           i.     Misrepresenting, directly or by implication, that revocable trusts are the only  
24 means, or the optimal means, to avoid guardianship proceedings;

25           j.     Misrepresenting and/or creating a net impression that probate proceedings  
26 (and, to a lesser extent, guardianship proceedings) are rife with problems that must be avoided;

1 k. Misrepresenting, directly or by implication, revocable living trusts as the  
2 most effective means of avoiding the problems of probate and necessarily better than other estate  
3 planning documents, without regard to consumers' individual circumstances;

4 l. Quoting alleged financial experts and other organizations to mislead  
5 consumers into believing that problems with the probate process are universal and that those  
6 problems may be solved universally with revocable living trusts, without regard to whether those  
7 financial experts were referring to or were even familiar with Washington law.

8 6.4 Defendants CLA's conduct substantially affects the public interest and has the  
9 capacity to deceive a substantial portion of the public because Defendants' representations were  
10 made to members of the general public as part of Defendants' regular business practices and were  
11 repeated with more than 11,000 Washington consumers. RCW 19.86.

12 6.5 Defendants CLA's conduct constitutes unfair or deceptive acts or practices in trade  
13 or commerce and unfair methods of competition in violation of RCW 19.86.020.

14 6.6 Defendants' acts or practices are additionally unfair because they offend public  
15 policy, as established by statutes, the common law, or otherwise; are immoral, unethical, oppressive,  
16 or unscrupulous; or causes substantial injury to consumers.

17 6.7 Defendants' acts or practices are contrary to the public interest and are not  
18 reasonable in relation to the development or preservation of business in violation of RCW  
19 19.86.020.

20 **VII. SECOND CAUSE OF ACTION AGAINST CLA**  
21 **(Violations of the Estate Distribution Documents Act, RCW 19.295.020)**

22 7.1 Plaintiff realleges the facts alleged in paragraphs 1.1 through 6.7 as if fully set out  
23 herein.

24 7.2 Defendants marketed estate distribution documents to Washington consumers in  
25 violation of the Estate Distribution Documents Act, RCW 19.295.020. Defendants' violations  
26 include, but are not limited to:

1 a. Marketing estate distribution documents by describing and touting  
2 purported benefits of revocable living trusts as compared to probate to consumers without being  
3 licensed to practice law in the state of Washington;

4 b. Offering to prepare or gather information about consumers for the  
5 preparation of estate distribution documents, without being licensed to practice law in the state of  
6 Washington, and without being employed by someone authorized to practice law in the state of  
7 Washington.

8 7.3 Pursuant to RCW 19.295.030, violations of the Estate Distribution Documents Act  
9 are *per se* violations of the Consumer Protection Act, RCW 19.86. As a result, Defendants CLA  
10 violated the Consumer Protection Act.

11 7.4 Defendants CLA's conduct affects the public interest and has the capacity to deceive  
12 a substantial portion of the public and constitutes unfair or deceptive acts or practices in trade or  
13 commerce and unfair methods of competition in violation of RCW 19.86.020.

14 7.5 Defendants' acts or practices are additionally unfair because they offend public  
15 policy, as established by statutes, the common law, or otherwise; are immoral, unethical, oppressive,  
16 or unscrupulous; or causes substantial injury to consumers.

17 7.6 Defendants' acts or practices are contrary to the public interest and are not  
18 reasonable in relation to the development or preservation of business in violation of RCW  
19 19.86.020.

20 **VIII. THIRD CAUSE OF ACTION AGAINST CLA AND MITCHELL JOHNSON**  
21 **(Violations of the Consumer Protection Act, RCW 19.86.020 – Unfair or deceptive**  
22 **practices in marketing annuities and other products)**

23 8.1 Plaintiff realleges paragraphs 1.1 through 7.6 and incorporates them herein as if set  
24 forth in full.

25 8.2 RCW 19.86.020 prohibits “unfair” or “deceptive” acts or practices in trade or  
26 commerce.

1           8.3     Defendant JOHNSON, and other CLA agents, on their own behalf and on behalf  
2 of Defendants CLA, committed numerous deceptive and/or unfair acts or practices during the  
3 conduct of their business. These acts or practices include, but are not limited to the following:

4           a.       Defendant JOHNSON, and other agents acting on behalf of Defendants  
5 CLA, held themselves out as investment advisers, and gave Washington consumers investment  
6 advice without being registered by the Washington State Department of Financial Management as  
7 Investment Advisors as required by RCW 21.20.040.

8           b.       Defendant JOHNSON misled Washington consumers by introducing  
9 himself to CLA clients as a Registered Investment Advisor, Broker, and Certified Financial Planner  
10 with 32 years in investment and estate planning and expertise in financial planning and long-term  
11 care. These representations had the capacity to deceive consumers into believing he had their best  
12 interests in mind and had the necessary qualifications, licenses, and certifications to give them  
13 investment advice.

14           c.       Defendant JOHNSON, and other agents acting on behalf of CLA, gave  
15 investment advice to Washington consumers by advising them to sell or liquidate securities without  
16 being registered as an Investment Advisor or Investment Advisor Representative as required by  
17 RCW 21.20.040.

18           d.       Defendant JOHNSON, and other agents acting on behalf of CLA, breached  
19 the fiduciary duty applicable to Investment Advisors or Investment Advisor Representatives by  
20 providing investment advice about securities to Washington consumers by, among other conduct:  
21 not acting primarily for the benefit of their clients in providing investment advice; making material  
22 misrepresentations or omissions about their qualifications, the services they were providing, their  
23 fees, and their conflicts of interest; inducing clients to sign forms disclaiming that they received  
24 investment advice, or that they otherwise waived compliance with the Securities Act of  
25 Washington; guaranteeing consumers a specific result (gain or no loss) if they sold their securities;  
26 and otherwise deceiving consumers with manipulative, untruthful or unethical acts or practices. As

1 a result of Defendants' acts and practices, many seniors were induced to sell or transfer securities  
2 in order to buy annuities or other insurance products, and incurred investment losses from the sale  
3 of their securities.

4 e. Defendant JOHNSON, and other agents acting on behalf of CLA, failed to  
5 disclose material terms related to annuities and other insurance products while marketing these  
6 products to Washington consumers that, if disclosed, would likely cause a reasonable senior to  
7 decide not to purchase the products, including but not limited to the substantial surrender penalties  
8 that are charged if seniors withdraw funds from the annuities within the first several years after the  
9 annuity is purchased. As a result of Defendants' failure to disclose, seniors incurred substantial  
10 surrender fees when they had to withdraw funds to pay for living or medical expenses.

11 f. Defendant JOHNSON, and other agents acting on behalf of CLA, induced  
12 seniors to sign annuity application documents that included false information or had them sign  
13 partially blank applications that Defendants later completed with false information in order to have  
14 annuity applications approved by the insurance companies. Without the false information, many of  
15 these annuity applications likely would have been rejected by the insurance companies.

16 g. Defendant JOHNSON advised Washington seniors to surrender annuities  
17 previously sold to them by CLA and to reinvest proceeds in different annuities with another  
18 insurance company. Defendants failed to disclose the substantial surrender penalties seniors would  
19 incur as a result of churning annuity products in this manner.

20 h. Defendant JOHNSON and other agents acting on behalf of CLA misled  
21 Washington consumers by failing to disclose that they received commissions for selling annuities  
22 they recommended, a fact that could reasonably be expected to impair the rendering of unbiased  
23 and objective advice. Even when asked how he was paid, JOHNSON misled consumers about the  
24 source of his income by telling consumers that he was paid by CLA.

1           8.4     Defendants CLA knew or should have known about the actions of Defendant  
2 JOHNSON and other agents who misled and deceived Washington consumers as described in this  
3 complaint, and had the ability to control and stop the deception, but failed to do so.

4           8.5     Defendants' conduct affects the public interest because it misled and injured  
5 numerous consumers in Washington, it was part of Defendants' ordinary business operations, and  
6 it was repeated.

7           8.6     Defendants' misrepresentations made in the course of their business affect the  
8 public interest and are unfair or deceptive acts or practices in trade or commerce and unfair methods  
9 of competition in violation of RCW 19.86.020 and are not reasonable in relation to the development  
10 and preservation of business. That the Legislature and regulators consider these matters to affect  
11 the public interest is evidenced by the following statutes and regulation:

12           a.     RCW 21.20.010 prohibits any person in connection with the sale of a  
13 security to employ any device, scheme, or artifice to defraud; to make any untrue statement of a  
14 material fact or omit to state a material fact necessary to make the statements not misleading, and  
15 to engage in any act or practice that would operate as a fraud or deceit upon any person.

16           b.     RCW 21.20.020 prohibits any person who receives any consideration from  
17 another party primarily for advising the other person as to the value or sale of securities to employ  
18 any device, scheme, or artifice to defraud; to make any untrue statement of a material fact or omit  
19 to state a material fact necessary to make the statements not misleading; and to engage in any act or  
20 practice that would operate as a fraud or deceit upon any person.

21           c.     RCW 21.20.040 prohibits any person from transacting business in this state  
22 as a broker dealer, broker dealer salesperson, or an investment adviser representative unless the  
23 person is registered as such. That statute further prohibits any person from holding him/herself out  
24 as or otherwise representing that he or she is a "financial planner," "investment counselor," or other  
25 similar term unless the person is registered as an investment adviser or investment adviser  
26 representative.

1 d. WAC 460-24A-220 imposes a fiduciary duty on investment advisers to act  
2 primarily for the benefit of their clients, and it prohibits dishonest or unethical business practices,  
3 including, but not limited to the following: recommending the sale or exchange of any security  
4 without reasonable grounds to believe that the recommendation is suitable for the consumer after  
5 reasonable inquiry and information known; misrepresenting to any prospective client the  
6 qualifications of the investment adviser or investment adviser representative; misrepresenting the  
7 nature of the services being offered or fees being charged for such service; omitting to state a  
8 material fact necessary to make the statements about qualifications, services or fees not misleading;  
9 failing to disclose in writing any material conflict of interest; guaranteeing a consumer client that a  
10 specific result will be achieved (gain or no loss) with advice about a security; purporting to indicate  
11 in a contract that a person waives or limits compliance with any provision of the Securities Act of  
12 Washington or the Investment Advisers Act of 1940; engaging in any act, practice or course of  
13 business which is fraudulent, deceptive, manipulative, or unethical; engaging in any act, indirectly  
14 or through another person, which would be unlawful for such person to do directly under the  
15 Securities Act of Washington; and making any untrue statement of fact, or omitting to state a  
16 material fact necessary in order to make the statement not misleading.

17 8.7 Defendants' acts or practices were unfair because they offend public policy, are  
18 immoral, unethical, oppressive, or unscrupulous, and/or caused substantial injury to consumers as  
19 outlined above.

## 20 IX. PRAYER FOR RELIEF

21 Wherefore, the Plaintiff, State of Washington, prays for the following relief:

22 9.1 That the Court adjudge and decree that Defendants have engaged in the conduct  
23 complained of herein.

24 9.2 That the Court adjudge and decree that the Defendants' conduct complained of  
25 herein violated the Estate Distribution Documents Act, RCW 19.295.020, and the Consumer  
26 Protection Act, RCW 19.86.020.

1           9.3     That the Court issue a permanent injunction enjoining and restraining Defendants  
2 and their representatives, successors, assignees, officers, agents, servants, employees, and all other  
3 persons acting or claiming to act for, on behalf of, or in active concert or participation with  
4 Defendants from continuing or engaging in the unlawful conduct complained of herein.

5           9.4     That the Court make such orders pursuant to RCW 19.86.080 as it deems  
6 appropriate to provide for consumer restitution.

7           9.5     That the Court assess civil penalties, pursuant to RCW 19.86.140, of \$2,000 per  
8 violation against Defendants for each and every violation of RCW 19.86.020.

9           9.6     That Plaintiff, State of Washington, recover from Defendants the costs of this action,  
10 including reasonable attorney's fees, pursuant to RCW 19.86.080.

11          9.7     That the Court order such other relief as it may deem just and proper to fully and  
12 effectively dissipate the effect of the conduct complained of herein, or which may otherwise seem  
13 proper to the Court.

14                   DATED this 8th day of March 2018.

15  
16                   ROBERT W. FERGUSON  
                    Attorney General

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18                     
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