

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

**Case No.:** \_\_\_\_\_

KETLER BOSSE,

Plaintiff,

vs.

NEW YORK LIFE INSURANCE  
COMPANY, NEW YORK LIFE  
INSURANCE AND ANNUITY CORP., and  
NEW YORK LIFE INSURANCE COMPANY  
OF ARIZONA,

Defendants.

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**COMPLAINT**

Plaintiff Ketler Bossé brings the following Complaint for damages against Defendants New York Life Insurance Company, New York Life Insurance and Annuity Corp., and New York Life Insurance Company of Arizona (collectively, “New York Life”).

**INTRODUCTION<sup>1</sup>**

Paperwork is highly-regulated in the insurance industry. An insurance soliciting agent (the professional who makes contact with potential insurance customers as a salesperson) spends an inordinate amount of time ensuring forms are properly completed: contracts go through detailed perusal and investigation for final approval by managers and eventual storage at an insurance company’s headquarters. Managers track the progress of every agent, approving every piece of correspondence generated by an agent; closely

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<sup>1</sup> Many of the facts below are included in, and verified by, the attached Declaration of Ketler Bossé in support of Complaint. *See* Exhibit A.

scrutinizing an agent's account ledger, commissions, and expense allowances; and quantifying how much revenue the company can expect from that agent's ability to generate new customers. An insurance agency is a securities law-driven verification warehouse of paper trails at all levels, including, but not limited to, its contracts with its employees and independent contractors.

Plaintiff Ketler<sup>2</sup> Bossé excelled as a soliciting agent in this environment with New York Life over a 14-year period. He devoted his life to the company and broke records: he was a top case writer, Agent of the Year in 2011, and a member of the "Million Dollar Round Table" almost every year since 2003, among numerous other milestones.

Despite these accolades, New York Life treated Mr. Bossé differently than other agents. Mr. Bossé is black. Because of the color of his skin, New York Life intentionally failed to consummate its business relationship with Mr. Bossé; abruptly terminated him based on a pretext; and then defamed him and appropriated his clients.

First, despite the strict rules and fastidiousness with which it manages its documents and employs its securities obligations, New York Life did not have a mutually-executed contract with Mr. Bossé: over the course of his time with the company, Mr. Bossé signed *three* contracts (or three *versions* of a contract) with New York Life, but the company failed to counter-sign them. New York intentionally failed to cement its relationship with Mr. Bossé, and blurred the true relationship between the parties, because Mr. Bossé is black.

Second, New York Life's employees made a collective and/or concerted decision that they no longer wanted Mr. Bossé to earn his share of the revenue he helped New York

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<sup>2</sup> Plaintiff's first name, Ketler, is pronounced "Kett-LAIR."

Life generate during his time there. James Robbins (the Director of Operations/Administrative Manager for the New Hampshire General Office in Manchester, New Hampshire), Stephen Irish (the then-Managing Partner of the New Hampshire General Office), and Nicholas Inglese (a Compliance Officer and Senior Associate) discriminated and harassed Mr. Bossé on the basis of race because he became too financially successful. Their conduct included, but is not limited to: (1) delaying in processing orders for both Mr. Bossé and his new agents who depended on that income; (2) maliciously denying Mr. Bossé advance commissions, thereby taking away his income and livelihood; (3) allowing white New York Life agents working out of the New Hampshire General Office to take clients from Mr. Bossé to “give [the white agents] a chance,” and/or forcing Mr. Bossé to share his commissions with white agents; (4) attributing the credit of hiring new and experienced agents groomed by Mr. Bossé to white agents; (5) causing multiple withdrawals from client accounts without Mr. Bossé’s advance knowledge, causing those clients to cut ties with Mr. Bossé; and (6) publicly and privately disparaging or allowing others to publicly and privately disparage Mr. Bossé’s diverse ethnic agents, including, but not limited to, using racial slurs when referring to them.

Third, New York Life terminated Mr. Bossé in February 2016 and jettisoned him from the company. It manufactured a fraudulent pretext to accomplish this: New York Life alleged it did not receive an email generated by Mr. Bossé from his corporate email address. It selected him to test new software and accused him of tampering with the software and/or computers while filing an email application for term life insurance for his ex-wife, Erika Applegate. It then terminated him in draconian fashion despite its acknowledgment in its own contract policy documents that, “[f]rom time to time...[an] e-

mail may not transmit properly.” *See* Exhibit B (New York Life Docu-Sign Policy).

Fourth, after terminating Mr. Bossé, New York Life made defamatory statements concerning him that prevented him from re-starting his business. New York Life included one of these statements in letters to the Financial Industry Regulatory Authority (“FINRA”) and then communicated that information to many of Mr. Bossé’s clients. As a result, many of those clients chose to stay with New York Life.

New York Life perpetrated a fraudulent ruse to get rid of a black agent that several key employees collectively disliked by charging *him* with the scurrilous fraud instead. New York Life forged documents, lied to government officials and Mr. Bossé’s clients, carried out a “sham” investigation, and manufactured a “report” to FINRA officials in order to destroy Mr. Bossé.

Mr. Bossé now alleges several claims against New York Life for this conduct. He is alleging claims under Title XLII (Title 42) (Equal rights under the law), Title VII (42 U.S.C. § 2000e-2(a)(1) and 2000e-3(a)) (Retaliation in Violation of the Law), and 42 USC § 1985 (Conspiracy to Interfere With Civil Rights); common law claims for fraud, breach of contract, breach of the covenant of good faith and fair dealing, and wrongful termination, tortious interference with business relations, breach of fiduciary duty, unjust enrichment, conversion, and defamation; and a claim for unfair or deceptive conduct under RSA 358-A.

Mr. Bossé seeks damages of \$14.9 million, exclusive of any punitive damages to which he is entitled, and recovery of his attorney’s fees and costs.

#### **PARTIES**

1. Mr. Bossé is a naturalized American citizen with a residential address of 14

West Appleton St., Manchester, New Hampshire.

2. Defendant New York Life Insurance Company is a New York corporation with a principal place of business at 51 Madison Avenue, New York, NY 10010. It purports to be a party to the contracts under which Mr. Bossé served as an agent for New York Life, and it conducts business in New Hampshire.

3. New York Life Insurance and Annuity Corporation is a wholly-owned subsidiary corporation of Defendant New York Life Insurance Co. and has a principal place of business at 51 Madison Avenue, New York, NY, 10010. It, too, purports to be a party to the contracts under which Mr. Bossé served as an agent for New York Life, and it conducts business in New Hampshire.

4. Defendant New York Life Insurance Company of Arizona is a wholly-owned subsidiary corporation of Defendant New York Life Insurance Co. It, too, purports to be a party to the contracts under which Mr. Bossé served as an agent for New York Life, and it conducts business in New Hampshire.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over Mr. Bossé's claims under 42 U.S.C. § 1981 pursuant to 28 U.S.C. §§ 1331 (federal question jurisdiction), 1332 (diversity jurisdiction), and 1343 (jurisdiction over claims arising under federal civil rights statutes).

6. This Court has personal jurisdiction over the three Defendants because they all purport to be parties to contracts with Mr. Bossé that were entered into in New Hampshire, and they all conduct business in New Hampshire.

7. This court also has pendant/supplemental jurisdiction under 28 U.S.C. § 1367(a) over any state law claims herein.

8. Venue is proper in this District because all the parties conduct business in this District, a substantial number of the acts alleged occurred in New Hampshire, and a majority of Defendants' employees referenced in this Complaint and other witnesses reside in New Hampshire.

## **FACTUAL BACKGROUND**

### **A. Mr. Bossé's First 10 Years with New York Life**

9. Mr. Bossé was born in Haiti, one of the poorest countries in the Western Hemisphere, and came with his family to the United States in 1980. He was 10 years old. He did not speak English at that time.

10. Mr. Bossé began working as a soliciting agent for New York Life in 2002, when he was 31 years old. At the time, he signed an Agent's Contract. *See* Exhibit C.

11. Under that Contract, Mr. Bossé was authorized "to solicit applications for individual life insurance policies, individual annuity policies, individual health insurance policies, group insurance policies, and group annuity policies."

12. Mr. Bossé "bled blue," a term used by New York Life to depict one's commitment and fealty to the company. Mr. Bossé's loyalty to New York Life was also memorialized in his customized New Hampshire license plates: the letters "NYLIFE" were emblazoned on them. Other agents who worked in the Manchester area knew him as "The New York Life Agent."

13. New York Life initially praised Mr. Bossé at the beginning of their relationship. It marketed him as the example of a good agent, presenting him as the face of good agenting. It asked him to speak as a motivational speaker for other agents at

conferences throughout the country and for top management's employees at the company's General Office in Manchester, New Hampshire.

14. Mr. Bossé's success as a soliciting agent depended on how many clients he could solicit and whether clients renewed their contracts. The Agent's Contract entitled Mr. Bossé to be compensated generally in two ways: First, Mr. Bossé earned First Year Commissions ("FYC"), a percentage of the entire first-year premium a new client that he directly generated paid on an individual policy or annuity. Second, Mr. Bossé earned renewal commissions, income generated from a client's renewal of a contract or policy. The latter was also known as "residual income." Mr. Bossé did not earn a salary.

15. The prospect of residual income made becoming an agent attractive. An agent earned a residual percentage from the renewal of certain types of contracts (term and whole life insurance policies, universal life insurance policies, variable life insurance policies, and annuities). At New York Life, these percentages ranged from 2% to 10% of a client's annual premium that the company collected every year. Through good customer service, clients would stick with an agent and continue renewing their policies. An agent, in turn, could continue to build his or her residual income year after year by maintaining and growing his or her client base and ensuring those clients renewed their policies every year. An agent with a substantial book of business could, therefore, maintain a comfortable income on residual income alone even if he or she did not generate any new clients.

16. Nevertheless, it was incumbent on agents, such as Mr. Bossé, to maintain a constant stream of new clients to ensure their income would either remain consistent or improve. Otherwise, an agent would have to rely heavily on his or her existing clients to

keep their policies or plans in place. For example, an agent was required to repay New York Life any arrears owing to the company. Because an agent was paid FYC (a percentage of the *entire* first-year premium on a policy), if a client canceled a policy within that first year, the agent would have to pay back the difference.

17. Agents were not paid in a traditional fashion. Instead of receiving a regular paycheck, an agent received an “Agent Ledger,” or book of his or her financial account. Each day, Mr. Bossé received a copy of his Agent Ledger, which identified the name of the client, policy number, and the corresponding credit or debit he would receive based upon the status of a given policy. An agent could make draws, or withdrawals, from that account. New York Life could also, however, deduct funds from that account for various reasons, such as if New York Life rescinded, declined, did not issue, or canceled a policy.

18. Mr. Bossé succeeded at not only generating new clients, but retaining them. He demonstrated proficiency at up-selling more expensive products from which he received residual income.

19. After 15 years at New York Life, Mr. Bossé built a solid residual income that paid him whether he worked or not. Between 2001 and 2013, Mr. Bossé’s income grew exponentially. He went from earning \$60,557 in 2001 to \$430,380 in 2013.

20. During his first decade with New York Life, Mr. Bossé had his office at the General Office in Manchester, NH. General Offices provide administrative support and training for agents and serve as liaisons for agents to New York Life’s underwriting and corporate departments. All client applications must be processed through the General Office.

21. Mr. Bossé achieved many accolades with New York Life:

- a) Rookie of the Year in New Hampshire (2002);
- b) New Hampshire General Office top case writer (2002, 2003, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014);
- c) Executive Council recognition (2002, 2003, 2007);
- d) Promoted to partner with New Hampshire General Office (2003);
- e) President's Council recognition (2006, 2008, 2009, 2012, 2013, 2014, 2015);
- f) President's Council top case writer (2006, 2008);
- g) Million Dollar Round Table membership (2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015);
- h) National Association of Insurance and Financial Advisors ("NAIFA") National Sales Achievement Award (2008, 2010);
- i) Chairman's Council recognition (2010, 2011); and
- j) New Hampshire General Office Agent of the Year (2011).

See Exhibit D (Achievements and Recognition).

22. Mr. Bossé received many of these awards in 2015, his final year with New York Life. *See id.*

#### **B. Mr. Bossé Becomes a District Agent in 2013**

23. In 2013, Mr. Bossé was promoted to a District Agent, which allowed him to establish his own firm separate from the General Office and hire his own agents. There are fewer than 125 District Agents (among approximately 11,000 to 12,000 soliciting agents) in the company. Mr. Bossé was the first black District Agent at New York Life, and he remained the *only* black District Agent before he was terminated.

24. One of the purposes of New York Life's District Agent program was to provide an opportunity for leading agents to continue to grow their business operations in their local communities.

25. The qualifications for becoming a District Agent were rigorous. In addition to his or her normal responsibilities, an agent had to (a) be on the Chairman's Council for the last two consecutive years or the last two out of three Council years; or (b) be a President or Chairman's Council qualifier for the last four out of five years with a

minimum of \$100,000 FYC in the last full Council year. In addition to these requirements, an agent had to, among other requirements, be a New York Life “Securities Registered Representative”; have three consecutive years of Million Dollar Roundtable membership; agree to use certain tools and processes for the development of unit agents; agree to maintain an active working relationship with the General Office’s Managing Partner to recruit and develop agents on an ongoing basis; be recommended by the Managing Partner; have a satisfactory market conduct profile and remain in good standing; have a certain level of financial stability.

26. Mr. Bossé met all these requirements. The Managing Partner of the General Office, Stephen Irish, recommended Mr. Bossé for the position.

27. When he became a District Agent, Mr. Bossé believed he had entered into a District Agent Agreement with New York Life. *See* Exhibit E (District Agent Agreement). He signed an Agreement, but the Agreement he has in his possession is neither dated nor countersigned by any New York Life corporate representative, and he never received a copy that contained such a counter-signature. *See id.* The only copy of such an Agreement he has was signed by Mr. Irish. *See id.*

28. The District Agent Agreement Mr. Bossé signed is allegedly 14 pages long and refers to Exhibits I-III. *See id.* The Agreement Mr. Bossé has, however, is only 10 pages and does not contain pages 11-14 or Exhibits II and III. *See id.*

29. Under the Agreement, Mr. Bossé, in addition to his duties as a soliciting agent, was required “to select, recruit and recommend the appointment of Agents to New York Life.” New York Life could reject or revoke the appointment of any agents Mr. Bossé recommended. Mr. Bossé was also required to have one proactive agent (an agent

earning at least \$24,000 per year in commissions) at the end of his first full District Agent calendar, two proactive agents by the end of his fourth year, and three proactive agents by the end of his fifth year.

30. Schedule A of the Agreement contains the District Agent compensation schedule. Under that schedule, Mr. Bossé earned various “override” commissions in addition to his usual compensation. An “override” was a “fee paid to the District Agent when a contracted Agent within the District Agent Unit sells products for New York Life.” There were five types of “override” commissions: “startup override,” “base override,” “new agent override,” “development override,” and “specialty products override.” They ranged from 70% to 90% of the commissions on various New York Life products generated by Mr. Bossé’s “District Unit,” which was comprised of the agents Mr. Bossé recommended and who were contracted by New York Life and assigned to Mr. Bossé.

31. As a District Agent, New York Life provided Mr. Bossé with the opportunity to open a “District Office.” Mr. Bossé would be required to lease his own office space, purchase furniture, hire his own administrative staff, and pay office expenses.

32. Mr. Bossé welcomed this opportunity and established his first District Agent office in Bedford, New Hampshire. The opening of that office cost Mr. Bossé approximately \$40,000. In 2013, however, he relocated to 50 Bridge Street, Manchester, NH, so his agents could be closer and better able to attend weekly classes held at the General Office. That move cost Mr. Bossé approximately \$15,000.

33. Notwithstanding the costs above and the requirements in the District Agent Agreement, Mr. Bossé became successful in building his District Unit. He exceeded New York Life’s requirements by hiring six agents within his first two years as a District Agent

and nine agents by the time he was terminated in early 2016.

34. As the agents in Mr. Bossé's District Unit built their own book of business, Mr. Bossé's override income continued to grow. Indeed, Mr. Bossé – already a "Chairman's Council"-level agent – was steadily on track to become a millionaire within three to four years at the rate his District Unit was growing.

35. Despite his expanded duties – recruiting, supervision, and management duties – Mr. Bossé did not neglect his work as an agent. He continued to qualify for the Million Dollar Round Table, lead the General Office in the sale of life insurance policies, and be recognized with the President's Council award.

36. Mr. Bossé's gross and net income increased from \$289,364 (gross) and \$163,929 (net) in 2012 to \$427,330 (gross) and \$283,302 (net) in 2014.

37. Mr. Bossé's District Unit was racially diverse. In one instance, his Unit consisted of four black agents, one Latino agent and three white agents.

### **C. New York Life's Pattern or Practice of Racial Discrimination**

38. This influx of African-American agents prompted a strong reaction of racial animus and discrimination from New York Life, and its conduct was consistent with a pattern of hostility towards African-Americans in the company.

39. Throughout the 21st century, New York Life has lagged in the employment of black agents and district agents. Upon information and belief, at the time of his hiring, Mr. Bossé was the only black agent for New York Life in New Hampshire. In addition, as late as 2012, when Mr. Bossé became a District Agent, upon information and belief, New York Life had no other black agents in New Hampshire. In 2001, only about 5% of New York Life's agents were black, while 12% of the United States' population at the time was

black. In contrast, 11% of New York Life's agents were Asian-American while they comprised only 4% of the United States population. At the District Agent level, as identified above, Mr. Bossé was the first and only black District Agent in the country from 2012 until his termination in 2016.

40. New York Life's underemployment of black agents and District Agents resulted from the company's lack of support for, and direct intervention in the business of, black agents compared to agents from other demographic groups.

41. The company harmed Mr. Bossé in three ways: (a) the company (specifically, Mr. Robbins and other New York Life employees) failed to process and underwrite applications Mr. Bossé and his agents submitted properly; (b) it engaged in back billing that undermined Mr. Bossé and his agents; and (c) it stole or drove away Mr. Bossé's agents. While he was a District Agent, Mr. Bossé focused his strategy as a District Agent on high income/high net worth prospective clients because, in part, such clients would earn him and his agents large residuals. New York Life failed to process and underwrite several applications. Its actions caused delays in the processing of those applications, and, as a result, Mr. Bossé lost those clients and potential commissions and income. New York Life's conduct also damaged morale in Mr. Bossé's District Unit and contributed to the loss of his agents. New York Life exacerbated these problems by engaging in improper back-billing of customers whose applications it had delayed during a lengthy underwriting process. This combination of a months-long approval process and back-billing drove away prospective clients.

42. For example, Willie Miles, a black agent, and Xavier Veras, a Latino agent, wrote six life insurance applications that were written on a family-owned business near

Haverhill, Massachusetts. They submitted the six applications simultaneously with the same last name on each application, but they suffered delays in processing, because Mr. Robbins claimed he had no idea they were related.

43. In another case, sometime around March 2015, one of Mr. Bossé's District Unit agents, Paul Etienne, and Mr. Bossé submitted a life insurance application for O.B., a wealthy customer from Rye, New Hampshire, who had founded two charitable organizations. The \$30,000 annual premiums from her policy would have generated a \$15,000 commission in the first year and renewal commissions afterward that Mr. Bossé and Mr. Etienne would have split. In addition, O.B. was providing Mr. Bossé and Mr. Etienne with introductions to celebrities and sports figures that the two men expected would lead them to other opportunities for large insurance policies. Normally, applications with \$30,000 premiums would have been ushered through processing and resolved quickly. Ms. Bobbett's application was held up, however, for two months in the underwriting department. Mr. Bossé and Mr. Etienne received unusual "questions" about the application from underwriting. New York Life finally approved the application. Nevertheless, two months or so after Mr. Bossé and Mr. Etienne submitted O.B.'s application, on the morning of May 27, 2015, Mr. Robbins directed one of his staff members to call Mr. Bossé and tell him to warn O.B. she would be charged three months of back premiums of \$7,500. Normally, a client is warned in advance by the soliciting agent concerning back premiums so the agent can obtain the client's permission to initiate the back-charge and have New York Life withdraw funds from the client's account; further, an email or a note from the agent to perform this "back-billing" is required. Mr. Robbins never requested that Mr. Bossé or Mr. Etienne perform either of these tasks. Due to Mr.

Robbins' egregious conduct, O.B. threatened to sue Mr. Bossé and New York Life and requested they restore her money. She ultimately cancelled the policy, refused to listen to Mr. Bossé's explanations, and ended her professional relationship with him. As a result of Mr. Robbins' intransigence in working with the underwriters to expedite the processing of the application, both Mr. Bossé and Mr. Etienne suffered a reversal of commissions that placed both of them in a negative ledger that month.

44. Mr. Bossé had not experienced similar delays in the processing of applications or underwriting or in New York Life back-billing clients without notice before he became a District Agent and built a District Unit of largely minority agents.

45. Fewer than three months later, in or around August 2015, Mr. Bossé wrote a \$2,000 monthly premium on another prospective client, "Y.M." This policy would have garnered him close to \$12,000 in advance commissions. It took 45 days, however, for New York Life to process this application. New York Life back-billed \$2,000 from the prospective client's account, again without sufficient advance notice to Mr. Bossé so he could, in turn, provide notice to his client for the client's advance approval. Indeed, in almost all cases, the General Office would call the agent to obtain permission from the client by phone or otherwise before billing the client. Here, it did not. As a result, the client cancelled her policy. New York Life then debited the \$12,000 in commissions from Mr. Bossé's agent ledger. When Mr. Bossé confronted Mr. Robbins about his treatment of the application, Mr. Robbins justified the decision by vaguely citing the "Variable Universal Life" product center protocols from "New York." The New York Life Agent/Registered Representative's Handbook does not mention, however, any such "New York" product center protocols concerning "Variable Universal Life" products. *See*

Exhibit F.

46. New York Life confiscated commissions from Mr. Bossé in other ways. For example, New York Life forced him to split his commissions for a policy sold to J.S. with a white agent who was hired after Mr. Bossé generated the business and despite the fact Mr. Bossé happened to know that client. New York Life also forced Mr. Bossé to split a commission associated with his sale of a policy to M.C. with a white agent.

47. Mr. Robbins, who was of Caucasian descent, was in charge of the General Office's compliance with applicable law, regulations, and company policies; regulating incoming business, processing applications, and liaising between agents and underwriting; managing the Office; and accepting personnel complaints. Mr. Robbins' authority extended to all matters in the Office, except sales to clients. Thus, he could affect the processing and underwriting of applications, and the billing and back-billing of clients.

48. As described above with Y.M.'s application, Mr. Bossé and other agents in his District Unit reached out to the General Office to resolve the issues above, but Mr. Robbins and the General Office blocked their attempts to try and eliminate those delays.

49. In addition to the loss or splitting of commissions, Mr. Bossé suffered the loss of agents from his District Unit. On numerous occasions, for example, Mr. Robbins and the General Office prevented Mr. Bossé's agents, such as Malcom Ngundam, Mr. Miles, and Mr. Etienne, from receiving paychecks even though they had, or should have had, money in their ledgers that was due to them. For example, Mr. Miles solicited a prospective client application that had previously been approved by underwriting. The application was, nevertheless, held up for a month. Mr. Robbins refused to assist in facilitating the payment Mr. Miles was owed. These agents also witnessed Mr. Bossé's

inability to resolve these and other issues. This dynamic damaged Mr. Bossé's agents' morale and their relationship with Mr. Bossé. As a result, at least three agents – Mr. Ngundam, Mr. Veras, and Amanda Brown – quit.

50. The General Office used Mr. Bossé's inability to protect his agents to seduce some of his top-producing agents, such as David Duquette and Ron Noyes, to relocate to the General Office instead of staying with Mr. Bossé (for a full three years during which Mr. Bossé could have earned maximum override commissions). Mr. Duquette joked after leaving for the General Office and being named a manager that his first duty as a manager would be to get Mr. Bossé terminated. This comment – even if it was a joke – demonstrated he was aware of the hostility directed by New York Life, including the General Office, toward Mr. Bossé.

51. In another instance in 2015, New York Life stole an agent, Marie Elsie Buteau, from Mr. Bossé. Mr. Bossé recruited Ms. Buteau, an experienced agent from another insurance agency in Massachusetts, to work for New York Life in New Hampshire. She was not ready to leave her current position. Mr. Bossé informed the General Office of his efforts. He arranged for her to interview with Mr. Irish. Normally, Mr. Irish and Mr. Bossé would confer about the status of any progress in hiring other experienced, professional agents. In this case, however, Mr. Irish did not confer with Mr. Bossé. Instead, several months later, when Ms. Buteau was ready to leave, Mr. Irish interviewed her without informing Mr. Bossé, and the General Office hired her and placed her there instead of having her join Mr. Bossé's District Unit. When Mr. Bossé questioned Mr. Irish about the incident, Mr. Irish indicated he had no control over the matter.

52. The loss of these agents cost Mr. Bossé hundreds of thousands of dollars in

override commissions when they occurred and more in potential override commissions over time. It also wasted his time, money, and energy he spent on identifying, recruiting, and training these agents, and similar efforts in identifying, recruiting, and training new agents to replace them. In 2015, Mr. Bossé estimates he was forced to spend 50% or more of this time on recruiting and training new agents and addressing problems caused by the General Office's efforts to hinder him and his District Unit. This time affected his production: Mr. Bossé could have obviously spent this time and energy selling insurance.

53. Racial discrimination by New York Life, among other things, caused Mr. Bossé's massive loss of income in 2015 – it plummeted to \$247,168 in gross income and \$154,166 in net income – and ultimately his wrongful termination, as described below.

54. Mr. Robbins' attitude toward Mr. Bossé ultimately infected Mr. Robbins' small operations' staff. During an internal investigation conducted by a New York Life Human Resources employee, Cherisse Munoz, after Mr. Bossé complained of racial discrimination when New York Life terminated his contract, a clerical employee of the General Office, Christine Ventunelli, admitted using the Italian derogatory term for persons of African descent, "moulinyan," in the Office. This term has the same meaning as "nigger." Ms. Ventunelli suffered no adverse consequences for the use of that term until the investigation conducted by Ms. Munoz. After the investigation, however, New York Life supposedly disciplined her in an undisclosed manner.

55. Christie Rice, the General Office coordinator at the time, heard the slur used multiple times by General Office employees other than Ms. Ventunelli in her presence, including by Mr. Robbins.

56. Incidentally, Mr. Robbins assigned Ms. Rice to hunt for mistakes and/or

errors in all of Mr. Bossé's clients' life insurance applications – likely in an effort to justify his eventual termination.

57. Upon information and belief, the General Office's upper management (including Mr. Robbins) made discriminatory or derogatory comments concerning Mr. Bossé and his District Unit, many of whom were minorities. The discriminatory comments included language about African-Americans, and the derogatory comments included stating they were lazy, tardy, and unprofessional.

58. For instance, in or around 2015, Sales Development Manager Mike Parolin made a comment to one of Mr. Bossé's new agents to "be careful of Ketler, watch out for him." This disparagement also included a public rebuke, in late 2015, by a white agent, Mr. Duquette, to the General Office after Mr. Bossé gave a speech in the Office.

59. Throughout his time with New York Life, Mr. Bossé adhered to the company's strict rules for continuing education. He took online and self-study courses in ethics and other subjects to satisfy the sixty (60) hours of continuing education New York Life required of its agents. Mr. Bossé was restricted, however, from attending one particular "Coaching Series" until his 11th year. That course was offered – inexplicably – only to *white* agents. Eugene Mitchell, head of the African American Market Unit Agents, advocated to allow black agents to attend these classes. It was only then that Mr. Bossé was allowed to attend.

60. It became clear to Mr. Bossé that Mr. Robbins and others in the General Office were impeding Mr. Bossé and his agents due to their race.

61. Mr. Bossé complained about the disparity in treatment to Mr. Irish and other New York Life professionals in 2013, 2014, and 2015. In at least some of these

complaints, he made clear that the service he was receiving from New York Life was attributable to racial discrimination. Regardless whether New York Life understood that Mr. Bossé was complaining that this mistreatment was due to racial discrimination or some other motive, it had an obligation to investigate complaints of disparate treatment, and it likely would have done so if the complaints were made by a white agent. Instead, Mr. Bossé's complaints fell on deaf ears.

62. On at least two occasions in 2015, in or about May or June and again in September, Mr. Bossé reported this treatment to New York Life's local Compliance Officer (and a Senior Associate), Nicholas Inglese. Mr. Inglese denied, however, that Mr. Robbins or anyone else was slowing Mr. Bossé's progress and brushed off his complaint without taking any investigative action.

63. On or about August 16, 2015, during a conference in Tampa, Florida, Mr. Bossé spoke with two New York Life African- American Unit Corporate vice presidents: Eugene Mitchell<sup>3</sup> and Rod White, and one South Central Zone Vice President, Lawrence Carter, about his mistreatment by the General Office and Mr. Robbins. Mr. Bossé requested that they look into it. None of these individuals investigated his complaints.

64. Throughout November 2015, Mr. Bossé complained to Mr. Irish and Sales Development Manager Mike Parolin, including about Mr. Duquette's rebuke above. Mr.

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<sup>3</sup> On February 16, 2017, Mr. Mitchell filed a lawsuit in the United States District Court for the Southern District of New York, Case 1:17-cv-01200-GBD, against New York Life, alleging New York Life did not promote the African American Market Unit ("AAMU") program with advertising; and did not provide necessary resources and support for AAMU, which contrasted the way it provided advertising and resources support for the New York Life Hispanic Market Unit and the Asian Market Unit. According to the complaint, New York Life invested \$9 million for the Hispanic Market Unit and supported its Hispanic staff of 40; in contrast, the AAMU budget was just over \$1 million and, despite Mr. Mitchell's lobbying efforts, comprised a staff of only two individuals. Mr. Mitchell's complaint alleged that, by 2015, the Hispanic Market Unit's staff increased to 60, while New York Life had only increased the AAMU's staff to four.

Parolin was formerly Mr. Bossé's District Unit agent, who was plucked from Mr. Bossé's team to join the General Office. They, too, did nothing. Rather, they openly disparaged his District Unit agents. (Mr. Parolin later telephoned Mr. Bossé, however, to apologize for his behavior.)

65. That same year, 2015, Mr. Bossé asked Timothy O'Brien, an Administrative Manager, about potentially moving his business to the Boston General Office because of Mr. Robbins and his treatment.

66. These incidents are not isolated. Rather, they were part of a conscious plan by New York Life to defraud Mr. Bossé of agents, clients, and income, and ultimately destroy his successful career.

**D. New York Life's Termination of Mr. Bossé**

67. As alluded to above, the insurance industry – including New York Life – highly regulates its paperwork to ensure it employs its securities obligations properly:

- a) Contracts go through detailed perusal and investigation.
- b) Managers track the progress of every agent: agents cannot customize e-mail templates, and individual emails, and their attachments, are monitored; copies of all correspondence are forwarded to the Managing Partner for review; the company closely scrutinizes an agent's account ledger, commissions, and expense allowances; and the company quantifies how much revenue it can expect from an agent's ability to generate new customers.
- c) Mr. Bossé used New York Life Insurance letterhead and New York Life Insurance Company DBA "Doing business as" (Bossé Future Capital Group) for his correspondence, and was given SMRU "Sales Material Review Unit" approved letter templates to use for clients at all stages of the relationships from follow-up letters, anniversary letters, and permanent agent introduction letters for replacing agents no longer employed with New York Life.
- d) New York Life even had rules about what types of shredders to use, and prescribed record-keeping requirements of its agents on a practical level,

but also on a regulatory level.

68. It was no secret that Mr. Bossé was unfamiliar with technology and routinely had his secretaries assist him with most secretarial, typing, and computer issues.

69. Mr. Robbins and two of his subordinates, Ms. Rice and Ms. Ventunelli, pressured Mr. Bossé, over a five-week period, to test new iPipeline software to be used to process electronic applications. Mr. Bossé begged the General Office not to use him to test the new software.

70. The General Office's alleged justification for badgering Mr. Bossé to use the software was because he was the top case writer for life insurance applications for New York Life in New Hampshire, and it made sense for the company to test the software with him.

71. On March 5, 2015, Mr. Bossé had to process "e-applications" for two customers. The first application pertained to his secretary, Karolyn Busch. The second application was for his ex-wife, Erika Applegate, with whom he was friendly.

72. Mr. Bossé became frustrated that Ms. Applegate's draft application remained on his computer awaiting confirmation by her email address. Thus, near the close of business one day, Mr. Bossé asked Ms. Busch to forward the application to his New York Life email address for him to forward to Ms. Applegate. Ms. Busch did as he instructed. Soon after, Mr. Bossé forwarded the application to Ms. Applegate (*see* Exhibit G), she opened it on her phone and e-signed it.

73. The Internet Protocol (IP) address from which Ms. Applegate's signature originated is from a different source than one from New York Life's servers. The iPipeline case summary and activity history contain date stamps that corroborate the fact and location

of her signature.<sup>4</sup> *See* Exhibit H.

74. Mr. Bossé never denied he forwarded the e-application to his work email address for forwarding to Ms. Applegate; rather, the *computer software* did not reflect the fact that it emanated from his New York Life account.

75. Thus, a “lesson” New York Life should have learned from the “testing” of the software instead became a sham pretext for terminating Mr. Bossé.

76. Instead of correcting a possible oversight in the software programming of the iPipeline technology, Mr. Robbins and the General Office concocted a story suggesting Mr. Bossé somehow tampered with Ms. Applegate’s application by forging her signature, risking his 15-year career, and his success as a District Agent, all for the potential commission he would receive for a single, small insurance application.

77. Mr. Inglese indicated in or around June 2015 that Mr. Robbins identified an “irregularity” in Mr. Bossé’s processing of Ms. Applegate’s insurance application. Mr. Robbins then accused Mr. Bossé of creating a fraudulent application attempting to hide the fact that he signed the application for Ms. Applegate.

78. When asked for an explanation, Mr. Bossé provided one in writing on June 3, 2015: he stated the same facts he has always maintained: he forwarded the application to Ms. Applegate from his email address, and she opened it and signed it. *See* Exhibit I (6/3/2015 Letter). Mr. Bossé believed the issue was resolved after June 2015.

79. Seven months later, in January 2016, the General Office sought additional

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<sup>4</sup> The only item the software did not corroborate was the true email address to which the e-application was submitted (Mr. Bossé’s New York Life email address); the activity history also does not reference the forwarding email. Instead of erroneously listing the email notification was “sent to Erika Applegate,” it should have reflected the email address to which the application *was* actually sent *to be forwarded to* Ms. Applegate: kBossé@ft.newyorklife.com.

explanations or other “versions” of Mr. Bossé’s explanation for the aberrant email. Mr. Bossé continued to insist he was telling the truth. His efforts were unsuccessful. In a surprise meeting on January 15, 2016 with Mr. Robbins, Mr. Inglese, and Fred Nicolais, New York Life terminated Mr. Bossé.

80. At the meeting, they handed Mr. Bossé a letter terminating his Agent’s Contract. The letter was signed by Albert Marquez, the Corporate Vice President of Agency Standards. Curiously, the letter purported to terminate Mr. Bossé under the 30-day at-will provision in the Agent’s Contract rather than the immediate “for cause” provision. During that meeting, however, the New York Life representatives above told Mr. Bossé he was being terminated because of the inaccuracies in the application process for Ms. Applegate.

81. Mr. Bossé appealed his termination in writing. He pled with New York Life to check with iPipeline’s representatives or review Ms. Applegate’s email server to confirm his story. Indeed, Ms. Applegate’s server would have demonstrated she received the iPipeline e-signature form on her Yahoo email account on March 5, 2015. New York Life did not contact an iPipeline representative to confirm its belief that Mr. Bossé tampered with Ms. Applegate’s application, and it made no effort to review Ms. Applegate’s email server.

82. In rejecting his appeal, in a letter dated March 24, 2016, New York Life informed Mr. Bossé his contract was terminated based on a “thorough review of the facts and circumstances related to your business practices in securing electronic life insurance applications.” Mr. Bossé submitted very few electronic life applications. Indeed, the only application to which New York Life could have been referring to was Ms. Applegate’s

application. New York Life conducted no investigation, let alone a thorough one, of the allegations concerning Ms. Applegate's application.

83. New York Life's failure to conduct an investigation demonstrates the alleged reason for his termination was pretextual. New York Life terminated him because of racial discrimination and retaliation.

**E. New York Life's Forged Contracts**

84. In February 2016, Mr. Bossé requested a copy of his Agent's Contract. He did not recall New York Life providing him with a copy of it.

85. In response to his request, Mr. Robbins and/or another New York Life representative produced two visibly forged documents, each attached to a standalone page with Mr. Bossé's recognizable signature.

86. Two of the copies of the Contract New York Life presented were not countersigned by a company representative. *See* Exhibit E & Exhibit J (Signature Pages). The third Contract whited out Mr. Bossé's alleged signature, although portions of cursive lettering below the line remain visible: those marks evince alphabet letters that are not used in Mr. Bossé's signature. *See* Exhibit K (Whited Out Agent's Contract)

87. New York Life's inability to produce a complete and legitimate Contract pertaining to Mr. Bossé's relationship with New York Life demonstrates that a company that is so mired in paperwork protocols but that did not handle one of its own Contracts properly intentionally perpetrated a fraud on Mr. Bossé. New York Life later defended a Charge of Discrimination filed by Mr. Bossé with the New Hampshire Commission for Human Rights, in part, by submitting one of these forged Contracts and arguing Mr. Bossé was an independent contractor. *See* Exhibit L (Answer to Charge).

88. New York Life did not treat Mr. Bossé the same as white agents, whose contracts were properly completed, signed, and countersigned. *See* Exhibit M (Sample New York Life Completed Contract).

**F. New York Life’s Defamation of Mr. Bossé**

89. After Mr. Bossé’s termination, New York Life reported the conduct of which it accused him to the California Department of Insurance and to FINRA.

90. New York Life then sent letters to *all* of Mr. Bossé’s clients. These letters communicated false information about him to his clients. They stated, “Ketler Bossé, who served as your agent, is no longer associated with New York Life. Additional information about registered representatives, including this agent, is available by visiting BrokerCheck at [www.finra.org/BrokerCheck](http://www.finra.org/BrokerCheck) sponsored by . . . FINRA.” *See* Exhibit N (Letter). That link takes a user to a search page on FINRA’s website. When a search is conducted for Mr. Bossé, his profile page loads. In the “Disclosures” section, there is an event titled “Employment Separation After Allegations” and dated February 14, 2016. When a user clicks on that event, more information is revealed. A drop-down box reveals the “Termination Type” is “Discharged,” and it describes the allegations as follows: “Mr. Bossé was terminated after the company determined that he provided inaccurate information regarding the processing of an electronic life insurance application. Although Mr. Bossé claimed that an email was sent and that the client signed the application electronically and we have records of an electronic signature, the company found no record in our systems of any email to the client.”

91. The letters then directed Mr. Bossé’s clients to contact New York Life about any “concerns” they may have about “the service you received from your former

agent.” *See* Exhibit N. They stated further, “Should you have any questions concerning the ongoing servicing of your accounts or would like a new agent assigned to service your accounts, please call the customer service phone number provided in the attached report.”

*Id.*

92. Many of Mr. Bossé’s New York Life clients ceased doing business with him after he was terminated, citing the letter they received from New York Life. For example, one client, C.T., explained to Mr. Bossé in a text message in May 2017 that she wanted to cancel an application she submitted with Mr. Bossé and, instead, keep her New York Life policy because, in part, “whatever [he] did to mak[e] that order flagged.” Another client, T.M., told Mr. Bossé, also by text message, in November 2017 that she was “scared” of her money and “what was said.” Another client, C.C., told Mr. Bossé, in a text message in February 2017, “I’m not doing any bizz with you.”

**G. New York Life’s Submission of a Forged Contract to the New Hampshire Commission for Human Rights**

93. As noted above, on February 12, 2016, Mr. Bossé filed a Charge of Discrimination with the New Hampshire Commission for Human Rights.

94. New York Life submitted a response and attached a contract it purported to represent the Agent’s Contract between the parties. *See* Exhibit L.

95. Again, despite New York Life’s attention to ensuring a paper trail exists of almost every communication generated by its agents and independent contractors, it never provided Mr. Bossé with a copy of his Contract with a countersignature by a New York Life representative.

96. The names and dates on the first page of the Contract New York Life

submitted to the New Hampshire Commission for Human Rights are whited out. *Id.* It then contains terms that float on separate pages and do not fall in sequence with the signature page. *Id.* The signature page itself then appears on a wholly separate page. *Id.*

97. Both contracts New York Life alleges pertain to Mr. Bossé do not contain standard universal clauses that are present in other New York Life contracts.

98. Indeed, New York Life's purported "personnel file" for Mr. Bossé contains only two pages of an alleged contract that allegedly pertains to Mr. Bossé. *See* Exhibit O (Personnel File). New York Life provided Mr. Bossé, however, with a copy of a purported contract that had the numbers "\_page 131 of 288" and two hole-punch marks in the farthest upper-left at the top of the page. *See* Exhibit P (Excerpt from Personnel File). This suggests the paper was hole-punched because it was part of a larger file pertaining to Mr. Bossé, whether or not New York Life deemed it a "personnel file."

#### **H. Mr. Bossé's Damages**

99. Before New York Life derailed his business, Mr. Bossé was on a career path toward earning, conservatively, \$1 million per year within five years of 2014. Indeed, during 2013, Mr. Bossé projected he would earn \$436,000 in First Year Commissions, and he earned a gross income of approximately \$427,000.

100. Instead of continuing on the path he set for himself, New York Life's conduct blindsided Mr. Bossé, destroyed his business, and brought his income down to zero. Mr. Bossé lost tens of thousands of dollars in new commissions on policies for which he would have been the agent that were lost due to New York Life's delays in processing the applications; he lost the possibility of residual commissions on those

accounts; he lost more money by being forced to split commissions with agents who had nothing to do with insurance sales that he made; he lost the override commissions he would have received if applications submitted by his own agents had been properly processed; he lost all of the sales he could have made if he had not been forced to spend half or more of his time dealing with issues created by New York Life or recruiting agents to replace those he lost because of New York Life's actions.

101. Mr. Bossé's termination in early 2016 cost him even more in new commissions, residual commissions, override income, and other compensation he would have earned but for his termination.

102. Mr. Bossé could not just leave New York Life and quickly, if ever, restore his previous income by working as an agent for another company for several reasons. First, New York Life is the third largest life insurance company in the United States. Few companies have equivalent resources and name recognition. Second, the Agent's Contract purported to prevent him from directly or indirectly contacting New York Life customers in New Hampshire for a year to attempt to induce them to cancel, lapse, or surrender any New York Life policies or annuities. (That provision, however, was unenforceable because of New York Life's breach of the Contract.) Third, New York Life attempted to ensure Mr. Bossé would never be able to sell to his former clients by defaming him in its communications to his clients and to FINRA. Fourth, the nature of the insurance business ensures Mr. Bossé will experience a large drop in income. As explained above, an agent's income comes from new and residual commissions. New York Life's termination of Mr. Bossé eliminated all of his residual income he established from 15 years of doing business for New York Life. Until he is able to rebuild a substantial book of business, he will not

have substantial residual commission income. Fifth, the information on FINRA's website has prevented Mr. Bossé from contracting with other insurance companies to sell their products.

103. In the time since his termination, Mr. Bossé has been hampered in his ability to secure work with a leading life insurance company and begin to re-establish his income. He initially worked with Ohio National for the first year following his termination. That company's strict underwriting requirements, however, prevented him from earning a substantial income. Mr. Bossé then moved to National Life Group, but he still earns far less commissions there than he did with New York Life. Despite his best efforts, he has been able to earn only a third of his maximum New York Life income: in 2017, for example, his net income from his sales efforts was only \$141,205.

104. Mr. Bossé's damages were not limited solely to his income: His termination plunged him into dire financial straits:

- a) Mr. Bossé likely lost his right to a pension, which would have vested within five years;
- b) Mr. Bossé's mortgage payments fell behind by three (3) months;
- c) The Internal Revenue Service placed a lien on his back-taxes (which it has now categorized as non-recoverable for the time being inasmuch as the IRS has since heard about Mr. Bossé's pending litigation against New York Life);
- d) Mr. Bossé lost his business office on Bridge Street in Manchester, NH;
- e) Due to New York Life's defamation of Mr. Bossé, his clients left him, and many refused to communicate with him.
- f) Mr. Bossé could not pay his expenses, including his business expenses. Creditors, including the IRS, pursued him.

105. His damages are also not just economic. New York Life betrayed his

loyalty by discriminating and retaliating against him. This betrayal of his trust caused him tremendous mental anguish, and he fell into depression.

106. The General Office benefitted from Mr. Bossé's termination: It was able to distribute his book of business, one of the largest in New Hampshire, among favored agents at the General Office. His agents who did not leave the company were reassigned to the General Office. Now, the General Office – not Mr. Bossé – earns the override commissions on the commissions on those agents' sales.

**COUNT I**  
**Equal Rights Under the Law**  
**(42 USC § 1981)**

107. Mr. Bossé incorporates herein each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

108. Mr. Bossé is a member of a protected class: he is an African-American, a racial minority, and would be regarded as an African-American by most Americans, including New York Life and its employees.

109. Many of the agents in Mr. Bossé's District Unit also identify as African-American.

110. After he became a District Agent, New York life treated Mr. Bossé differently than it did white agents.

111. The approval of applications and the payment of commissions were among the benefits, privileges, terms, and conditions of the contractual relationship between Mr. Bossé and New York Life.

112. New York Life prevented Mr. Bossé from enjoying these benefits,

privileges, terms, and conditions that white agents in similar positions were allowed.

113. For example, New York Life scrutinized applications submitted by Mr. Bossé and his District Unit more closely than it did applications submitted by other agents, which delayed the approval of those applications or imposed conditions on their approval. This conduct led to the loss of customers with large policies that would have resulted in substantial commissions to Mr. Bossé and members of his District Unit. New York Life also delayed the commissions of Mr. Bossé and his District Unit, including, for example, unreasonably delaying customers' applications and then sabotaging those accounts when it could no longer produce any reason for the delay by back-billing months of back premiums without warning. Back-billing without prior notice was not New York Life's usual or normal practice.

114. New York Life also produced a forgery for Mr. Bossé's Agent's Contract, representing that it was a legitimate contract, which proves what Mr. Bossé signed was never a fully-executed contract. New York Life also never executed Mr. Bossé's District Agent Agreement.

115. New York Life then terminated Mr. Bossé's Agent's Contract under circumstances that would not have resulted in the termination of the relationship with a white agent. In terminating him, New York Life invoked the Contract's terms, which allowed it to fraudulently manufacture an arbitrary reason for terminating Mr. Bossé, thereby disguising its discriminatory animus.

116. After not having made changes to its intranet policies since 2014, New York Life made specific changes to its policies in 2016 to substantiate its fraudulent actions, after Mr. Bossé's discrimination claims were made public.

117. New York Life's discrimination resulted from more than just the actions of one rogue manager, Mr. Robbins. Rather, numerous managers were responsible for implementing New York Life's corporate policies, operations, communications, and/or decisions. They did nothing. They disparaged Mr. Bossé and his agents. The managers to whom Mr. Bossé complained in 2014 and 2015 did nothing to stop the discrimination. Further, numerous managers, including New York Life's corporate vice president, participated in the decision to terminate Mr. Bossé and/or not to act on his appeal to have his position restored.

118. New York Life had knowledge of these individuals' actions and conduct, and it ratified, authorized, and approved of it.

119. New York Life treated Mr. Bossé worse than it did white agents because he, and many of his District Unit agents, were racial minorities. One or more of New York Life's employees in decision-making roles wanted to undermine him because of his race.

120. New York Life interfered with Mr. Bossé's right to equal protection under the law to make and enforce his contract with New York Life in violation of his rights under 42 U.S.C. § 1981.

121. New York Life's discriminatory actions against Mr. Bossé were taken maliciously or, at best, with reckless indifference to his federally-protected right to be free of racial discrimination.

122. As a result of this discrimination, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT II**  
**Retaliation in Violation of the Law**  
**(42 U.S.C. § 1981)**

123. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

124. As described above, Mr. Bossé raised issues and complaints with senior members of New York Life about racial bias and animus at the New Hampshire General Office that were impeding his work as a District Agent and the work of his District Unit.

125. Instead of investigating this conduct and remedying it, New York Life retaliated through further actions to impede the success of Mr. Bossé and his District Unit, and ultimately by terminating him based on false allegations concerning his processing of an insurance application and failing to conduct a thorough examination to assess the veracity of Mr. Bossé's explanation of what occurred. Indeed, New York Life discriminated against Mr. Bossé by terminating him because he refused to change his truthful explanations concerning the email transmission. It punished him for refusing to fabricate a lie in his defense, which New York Life asked him to do in order to save his job.

126. Mr. Bossé then filed a Charge of Discrimination with the New Hampshire Commission on Human Rights, which was cross-field with the Equal Opportunity Employment Commission. Although those agencies ultimately denied his charge on the basis that he was not an employee while working for New York Life, the company retaliated against him by denying his internal appeal and then reporting his

alleged wrongdoing to FINRA and alerting his former clients about its false allegations against him.

127. New York Life's retaliation against Mr. Bossé for making internal complaints of discrimination and challenging his termination both internally and with administrative agencies violates his right under 42 U.S.C. § 1981 to equal protection under the law to make and enforce his contracts with New York Life.

128. New York Life's retaliatory actions against Mr. Bossé were taken maliciously or, at best, with reckless indifference to his federally-protected right to be free of illegal retaliation.

129. As a result of this retaliation, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT III**  
**Conspiracy to Interfere with Civil Rights**  
**(42 USC § 1985)**

130. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

131. 42 USC § 1985 prevents two or more persons from conspiring to deprive, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws.

132. Mr. Robbins used his position to influence other New York Life employees, including, but not limited to, Mr. Inglese, Mr. Irish, and others, in a civil conspiracy to intentionally deprive Mr. Bossé of his right to equal protection under the law and to economically injure him in violation of 42 USC § 1985.

133. As a result of this retaliation, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT IV**  
**Breach of Contract**  
**42 USC § 1981**

134. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

135. 42 USC § 1981 prohibits race discrimination in the making and enforcing of contracts.

136. New York Life at a contractual relationship with Mr. Bossé or, at a minimum, an at-will employment relationship, which is also a contractual relationship, in which Mr. Bossé was entitled to the enjoyment of all benefits, privileges, terms, and conditions of a contractual relationship.

137. New York Life breached that contract because it terminated its relationship with Mr. Bossé for racially discriminatory reasons, as described above, in violation of 42 U.S.C. § 1981.

138. As a result of this breach, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT V**  
**Breach of Contract**

139. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

140. New York Life had two contracts with Mr. Bossé: an Agent's Contract and a District Agent Agreement.

141. New York Life breached those contracts, without legal excuse, by failing to fulfill its obligations under them.

142. New York Life created a fraudulent pretext to terminate Mr. Bossé in order to prevent him from receiving his compensation as a soliciting agent under the Agent's Contract and a District Agent under the District Agent Agreement.

143. New York Life was motivated by bad faith, malice, and retaliation.

144. As a result of these breaches, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT VI**  
**Breach of Covenant of Good Faith and Fair Dealing**

145. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

146. In every agreement, there is an implied covenant that the parties will act in good faith and fairly with one another. The function of the implied covenant is to prohibit behavior that is inconsistent with the parties' agreed-upon common purpose and justified expectations as well as with common standards of decency, fairness, and reasonableness.

147. New York Life breached the covenant of good faith and fair dealing with Mr. Bossé in several ways: at the contract formation stage, it had Mr. Bossé sign an incomplete and defective contract; it impeded his ability to attract new customers through its prolonged scrutiny of applications, interfering with his efforts to build a successful District Unit; it disparaged him and members of his District Unit; it retaliated against him when he complained about this disparate treatment that he and District Unit agents received; it fabricated a ruse to terminate him because of an alleged email

transmission issue; it failed to investigate the truth of the allegations against him before it terminated its relationship with him; it terminated him and avoided the payment of hundreds of thousands or millions of dollars in residual commissions, override commissions, and other commissions that he would have otherwise been due under his contractual relationship with New York Life.

148. As a result of this breach, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT VII**  
**Fraud**

149. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

150. New York Life falsely purported to have entered into an enforceable contract with Mr. Bossé.

151. Mr. Bossé did not have an enforceable contract: (a) one document shows only Mr. Bossé's signature without any corresponding countersignature by a New York Life representative; (b) another document without a countersignature shows a first page with handwriting that purports to be Mr. Bossé's handwriting but lists the New Hampshire General Office address as Mr. Bossé's residential "address"; (c) another document shows a whited-out signature with a countersignature dated April 29, 2003, which does not reflect Mr. Bossé's employment commencement date of 2001; and (d) either contract's signature page is on a wholly separate page.

152. New York Life purposely and fraudulently represented to the New Hampshire Commission on Human Rights that it entered into a contract with Mr. Bossé,

knowing it had no copy of such a contract.

153. New York Life did not produce a complete contract because it never “consummated” the contractual relationship by countersigning the contract. This decision demonstrated its discriminatory intent of not being legally bound by its terms to Mr. Bossé.

154. Despite presenting two Agent’s Contracts purporting to represent a contractual relationship between the parties, New York Life purposefully failed to include Mr. Bossé’s District Agent Agreement. Mr. Bossé was a District Agent when he was terminated.

155. New York Life also fraudulently, and in bad faith, claimed not to have a “personnel file” concerning Mr. Bossé.

156. Mr. Bossé reasonably relied upon New York Life’s feigned contractual pretenses, believing he was being treated like other agents, and not in a discriminatory fashion.

157. The manner in which Mr. Bossé’s relationship with New York Life was terminated demonstrates that, from conception to termination of his relationship with New York Life, he was not treated with the dignity to which he was entitled, especially after generating so much revenue for New York Life.

158. New York Life, which staked its billion-dollar reputation on documentation, and which controls to the most minute detail all of its employees’ and independent contractors’ correspondence, disregarded the solemnity of contractual relationships with Mr. Bossé, an African-American agent, and faulted him for the very thing it does itself (fabricating legal documents), thereby demonstrating evidence of

fraud and discriminatory animus.

159. New York Life's treatment of Mr. Bossé for one alleged infraction was different than its treatment of non-black agents who had committed far more egregious acts but were allowed to stay with New York Life.

160. As a result of this conduct, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

### **COUNT VIII Wrongful Termination**

161. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

162. New York Life was motivated by bad faith, malice, and retaliation in terminating Mr. Bossé's employment.

163. New York Life demonstrated bad faith because it made Mr. Bossé a beta tester of software that had inherent flaws in it, and New York Life imputed those errors to Mr. Bossé as a pretext for terminating him.

164. New York Life's employees were motivated by bad faith, malice, or retaliation in terminating Mr. Bossé's contract because he told the truth about the email, an act that public policy would encourage, and, when he refused to change his story, he was terminated, something public policy would condemn.

165. New York Life employees' bad faith is also evident in that Mr. Bossé served New York Life for 15 years with unwavering dedication, but New York Life discarded him so inhumanely and in such a discriminatory manner while the company benefits, to this day, from his work.

166. As a result of this conduct, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT IX**  
**(Violation of RSA 358-A)**

167. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

168. Each Defendant is a “person” under RSA 358-A:1, I.

169. New York Life engaged in unfair methods of competition and deceptive acts or practices by: (a) purporting its relationship with Mr. Bossé to that of an independent contractor yet controlling every aspect of his business as if he was an employee; (b) disparaging Mr. Bossé’s services by making false or misleading representations of fact that Mr. Bossé tampered with and/or wrongfully manipulated computer emails to hide his signing of his ex-wife’s insurance application; (c) disparaging Mr. Bossé’s recruitment of agents (a business that was performing quite well before New York Life’s efforts to slow Mr. Bossé’s success) by publicly discrediting Mr. Bossé in the New Hampshire General Office; (d) permitting the use of racial slurs to refer to his and some of his agents’ race and ethnicity; (e) terminating Mr. Bossé based on false pretenses; (f) submitting false and/or misleading statements concerning Mr. Bossé to FINRA and in letters to his former clients (referring them to the FINRA website); and (g) inviting his agents to be transferred to the New Hampshire General Office.

170. New York Life’s actions occurred in trade or commerce.

171. New York Life's actions rose to "a level of rascality that would raise an eyebrow of someone inured to the rough and tumble of the world of commerce." *ACAS Acquisitions v. Hobert*, 155 N.H. 381, 402 (2007).

172. As a result of New York Life's actions, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below..

173. In addition, under RSA 358-A:10, I, Mr. Bossé is entitled to as much as three times the amount of damages it has suffered because New York Life's actions were "willful or knowing."

**COUNT X**  
**Tortious Interference with Economic Advantage**

174. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

175. Mr. Bossé made it part of his business goals to prospect business opportunities with high net worth individuals, not only as clients, but as conduits to other high net worth individuals. He formed business relationships with these individuals.

176. New York Life intentionally disrupted and terminated these business relationships, including, but not limited to delaying the processing of Mr. Bossé's clients' applications, withdrawing money from clients' bank accounts without providing them or Mr. Bossé with advance notice, and also publicly questioning Mr. Bossé's clients' bona fides.

177. New York Life knowingly and wrongfully sabotaged Mr. Bossé's clients' applications, on at least three occasions, creating obstacles that caused each of his clients to terminate their relationships with Mr. Bossé.

178. New York Life added insult to injury by interfering with his relationships with his former agents, writing his former clients letters concerning his termination, and interfering in their relationships with Mr. Bossé by providing them the false impression that Mr. Bossé had done something wrong, causing many of his clients and acquaintances to cease associating with him.

179. In addition, each of the persons to whom New York Life sent a letter calling his or her attention to its submission to FINRA had entered into a business relationship with Mr. Bossé, and most or all of them still had a business relationship with Mr. Bossé as of February 2016.

180. New York life was aware of those relationships and induced the disruption or termination of those relationships by warning them about his termination. Its letters were intended to induce or cause each of these persons not to continue or enter into a new business relationship with Mr. Bossé when he became an agent for another insurance company.

181. Most, if not all, of the individuals who received these letters has entered into an insurance policy in which Mr. Bossé is the agent.

182. As a result of New York Life's actions, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT XI**  
**Breach of Fiduciary Duty**

183. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

184. New York Life had a fiduciary duty to Mr. Bossé.

185. New York Life breached that duty by withholding, and ultimately keeping for itself, Mr. Bossé's FYC and residuals; terminating Mr. Bossé on false pretenses; and interfering in his relationships with his clients.

186. As a result of New York Life's actions, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT XII**  
**Unjust Enrichment**

187. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

188. New York Life received a benefit from Mr. Bossé through the ruse of concocting Mr. Bossé's alleged email transgression, using that as a pretext to receive benefits from Mr. Bossé's hard-earned work (relationships, clients, agents, and goodwill), and then retaining Mr. Bossé's commissions and residuals.

189. New York Life retained this benefit.

190. New York Life has failed and refused to fully pay Mr. Bossé for this benefit.

191. It would be inequitable to permit New York Life to retain the benefit bestowed on it by Mr. Bossé under these circumstances without payment by New York Life to Mr. Bossé of the value it received from Mr. Bossé.

192. Mr. Bossé is entitled to judgment equal to the value of the benefit received by New York Life, plus interest, costs, and attorney's fees as well as all other damages allowable under the law.

**COUNT XIII**  
**Quantum Meruit**

193. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

194. Mr. Bossé provided valuable goods and services to New York Life for New York Life's benefit.

195. Mr. Bossé is entitled to payment for the reasonable value of the goods and services he provided to New York Life.

196. New York Life has failed to pay Mr. Bossé this amount.

197. As a result of New York Life's failure to pay, Mr. Bossé has suffered damages.

198. Mr. Bossé is entitled to judgment equal to the value of the benefit received by New York Life, plus interest, costs, and attorney's fees as well as all other damages allowable under the law.

**COUNT XIV**  
**Conversion**

199. Mr. Bossé incorporates each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

200. Mr. Bossé owned or had a right to possess certain bonuses and commissions to which he was entitled.

201. New York Life intentionally interfered with, or exercised dominion or control over, those payments by withholding them and ultimately keeping them for itself.

202. New York Life's interference deprived Mr. Bossé of the possession or use of these funds.

203. New York Life's interference caused Mr. Bossé to suffer the injuries

described above and is entitled to the remedies set forth below.

**COUNT XV**  
**Defamation per quod**

204. Mr. Bossé incorporates herein each and every allegation made in Paragraphs 1 through 105 above as if fully set forth herein.

205. New York Life provided false, misleading, and defamatory statements of fact about Mr. Bossé to FINRA and Mr. Bossé's clients.

206. New York Life failed to exercise reasonable care in publishing this information.

207. No valid privilege applied to the publication of this information.

208. As a result of New York Life's conduct, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

**COUNT XVI**  
**Defamation per se**

209. Mr. Bossé incorporates herein each and every allegation made in Paragraphs 1 through 106 above as if fully set forth herein.

210. New York Life provided false, misleading, and defamatory statements of fact about Mr. Bossé to FINRA and Mr. Bossé's clients.

211. These statements are the types of statements that would tend to injure Mr. Bossé in his trade or business.

212. New York Life failed to exercise reasonable care in publishing this

information.

213. No valid privilege applied to the publication of this information.

214. As a result of New York Life's conduct, Mr. Bossé has suffered the injuries described above and is entitled to the remedies set forth below.

WHEREFORE, Mr. Bossé respectfully prays for judgment against the Defendants and the following remedies:

- A. Compensation for lost back pay and benefits;
- B. Compensation for loss of future pay and benefits;
- C. Compensation for emotional distress and injury;
- D. Liquidated damages;
- E. Enhanced compensatory damages;
- F. Punitive damages;
- G. Pre- and post-judgment interest;
- H. Enjoin New York Life from any further communications to Mr. Bossé's former clients disparaging him;
- I. Recovery of Mr. Bossé's reasonable attorney's fees and expenses;
- J. Any other relief this Court deems just and proper.

**JURY TRIAL DEMAND**

Mr. Bossé demands a jury trial on all claims so triable.

