

CA 09-471 HL

**I. (a) PLAINTIFFS**

Transamerica Life Insurance Company

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Brooks R. Magratten, Esq., #3585  
Pierce Atwood, LLP, 10 Weybosset Street,  
Suite 400. Providence. RI 02903 (401) 588-5113

**DEFENDANTS**

Patrick Garvey, et al.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                                       |   |                                       |                            |
|---|----------------------------|---------------------------------------|---|---------------------------------------|----------------------------|
|   | PTF                        | DEF                                   |   | PTF                                   | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4            | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6            | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<p><b>Admiralty</b></p> <p><input type="checkbox"/> 340 Marine (Injury to Seamen)</p> <p><input type="checkbox"/> 120 Marine (Other)</p> <p><b>Admin/Agency Appeals Other</b></p> <p><input type="checkbox"/> 890 Other Statutory Actions (APA Appeals, IDEA Appeals, Other)</p> <p><b>Bankruptcy</b></p> <p><input type="checkbox"/> 422 Appeal 28 U.S.C. § 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 U.S.C. § 157</p> <p><b>Banks and Banking</b></p> <p><input type="checkbox"/> 140 Negotiable Instruments</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 875 Customer Challenge to Subpoena (12 U.S.C. § 3410)</p>	<p><b>Constitutional Law</b></p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 440 Other Civil Rights (Constitutionality of Federal Statutes)</p> <p><b>Elections and Voting</b></p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 441 Voting</p> <p><b>Other - Civil Rights</b></p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 446 Americans with Disabilities</p>	<p><b>Immigration</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 463 Habeas Corpus - Alien Detainees</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><b>Indian Law</b></p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><b>Insurance</b></p> <p><input checked="" type="checkbox"/> 110 Insurance Contract</p> <p><b>Labor and Occupational Safety</b></p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 730 Labor/Management Reporting and Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p>	<p><b>Miscellaneous Civil Cases Continued</b></p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 690 Other (Forfeiture)</p> <p><input type="checkbox"/> 690 Other (Health Care)</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party (26 U.S.C. § 7609)</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination under Equal Access to Justice Act</p>	<p><b>RICO</b></p> <p><input type="checkbox"/> 470 RICO</p> <p><b>Social Security</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p>
<p><b>Anti-trust</b></p> <p><input type="checkbox"/> 410 Anti-Trust</p> <p><b>Construction Contracts</b></p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 190 Other Contracts</p> <p><b>Securities Law &amp; Stockholder Suits</b></p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><b>Other - Business/Comm.</b></p> <p><input type="checkbox"/> 196 Franchise</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><b>Consumer Credit</b></p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 190 Other Contracts</p>	<p><b>Copyright &amp; Trademark (Intellectual Property)</b></p> <p><input type="checkbox"/> 820 Copyright</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>Employment Discrimination</b></p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 445 Americans with Disabilities-Employment</p> <p><input type="checkbox"/> 440 Other - Civil Rights</p> <p><b>ERISA</b></p> <p><input type="checkbox"/> 791 Employment Ret. Inc. Security Act</p> <p><b>Other Employment Benefits</b></p> <p><input type="checkbox"/> 190 Other - Contract</p> <p><input type="checkbox"/> 442 Other - Employment</p>	<p><b>Miscellaneous Civil Cases</b></p> <p><input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment (Collections)</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 440 Other Civil Rights (Immigration/Deportation)</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food and Drug</p> <p><input type="checkbox"/> 625 Drug related seizure of property</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 Railroad and Truck</p>	<p><b>Patents (Intellectual Property)</b></p> <p><input type="checkbox"/> 830 Patents</p> <p><b>Prisoner Petitions</b></p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence (2254)</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence (2255)</p> <p><input type="checkbox"/> 530 General (Habeas)</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus and Other</p> <p><input type="checkbox"/> 550 Civil Rights (1983)</p> <p><input type="checkbox"/> 555 Prison Conditions(1983)</p>	<p><b>Mass Torts</b></p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><b>Products Liability</b></p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 365 Personal Injury Product Liability</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>
<p><b>Business and Commercial</b></p>		<p><b>Torts and Personal Injury</b></p>		
<p><b>Employment and Employee Benefits</b></p>		<p><b>Real and Personal Property</b></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease and Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 290 All other Real Property</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p>		
<p><b>Environmental Law</b></p> <p><input type="checkbox"/> 893 Environmental Matters</p>		<p><b>Professional Malpractice</b></p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p><b>Motor Vehicle Accidents/Slip and Fall</b></p> <p><input type="checkbox"/> 350 Motor Vehicles</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><b>Other Torts and Personal Injury incl. Asbestos cases</b></p> <p><input type="checkbox"/> 360 Other Personal Injury (Fed. Tort Claims Act)</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 320 Assault, Libel and Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury</p>		

**V. ORIGIN (Place an "X" In One Box Only)**

1 Original Proceeding     
 2 Removed from State Court     
 3 Remanded from Appellate Court     
 4 Reinstated or Reopened     
 5 Transferred from another district (Specify)     
 6 Multidistrict Litigation     
 7 Appeal to District Judge From Magistrate Judgment

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**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**28 U.S.C. 1332**

Brief description of cause:  
**Rescission of annuity policy, breach of contract and fraud.**

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**VII. REQUESTED IN COMPLAINT**

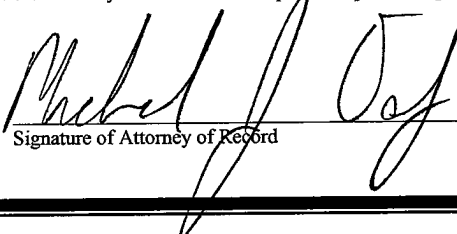
Check if this is a Class Action Under F.R.C.P. 23     
DEMAND \$ \_\_\_\_\_     
JURY DEMAND:  Yes     No  
(Check YES only if demanded in complaint)

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**VIII. RELATED CASE(S) IF ANY**

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

Date 10/2/09 \_\_\_\_\_  
Signature of Attorney of Record  \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. NATURE OF SUIT: Place an X in the appropriate box. Make sure to select the Nature of Suit from the category which best describes the primary cause of action found in your complaint. You must select only one nature of suit.
- VIII. RELATED CASES, IF ANY: This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**FOR OFFICE USE ONLY**

Receipt # \_\_\_\_\_ Amount \_\_\_\_\_ Applying IFP \_\_\_\_\_ Judge \_\_\_\_\_ Mag. Judge \_\_\_\_\_