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13 UNITED STATES DISTRICT COURT
14 WESTERN DISTRICT OF WASHINGTON

15 LIFEWISE ASSURANCE COMPANY, a
Washington corporation; LIFEWISE
16 HEALTH PLAN OF WASHINGTON, a
Washington corporation; and LIFEWISE
17 HEALTH PLAN OF OREGON, INC., an
Oregon corporation,

18 Plaintiffs,

19 v.

20 REGENCE LIFE AND HEALTH
21 INSURANCE COMPANY, an Oregon
corporation, d/b/a LIFEMAP ASSURANCE
22 COMPANY,

23 Defendant.

No.

**VERIFIED COMPLAINT FOR
DAMAGES AND INJUNCTIVE
RELIEF**

[JURY DEMAND]

24
25 Plaintiffs LIFEWISE ASSURANCE COMPANY, LIFEWISE HEALTH PLAN OF
26 WASHINGTON, and LIFEWISE HEALTH PLAN OF OREGON, INC., by and through their

1 attorneys of K&L Gates LLP, for causes of action against REGENCE LIFE AND HEALTH
2 INSURANCE COMPANY d/b/a LIFEMAP ASSURANCE COMPANY, complain and allege as
3 follows:

4 **I. INTRODUCTION AND SUMMARY OF RELIEF REQUESTED**

5 1.1 This is a case about intentional and willful servicemark infringement, dilution,
6 unfair competition, and unfair and deceptive trade practices carried out by Defendant in order to
7 create confusion in the marketplace for health insurance products and services and to piggyback
8 and free ride on the substantial goodwill created by Plaintiffs.

9 1.2 As detailed herein, for many years Plaintiffs have offered insurance-related
10 products and services to the citizens of Washington and Oregon under the "LifeWise®" brand
11 name, including "LifeWise®," "LifeWise Assurance Company®," "LifeWise Health Plan of
12 Washington," and "LifeWise Health Plan of Oregon." Through the hard work and perseverance
13 of Plaintiffs, the LifeWise® brand has become known in the Pacific Northwest marketplace as
14 synonymous with high quality, comprehensive and innovative health insurance and health care
15 services. Awards bestowed on the LifeWise® brand by third-party organizations and positive
16 news stories have served to augment the substantial goodwill and reputation enjoyed by the
17 Plaintiffs in the highly competitive insurance marketplace of Washington and Oregon. The
18 LifeWise® brand has also become very familiar to insurance brokers, producers, and others in
19 Washington and Oregon.

20 1.3 Until just recently, Defendant Regence Life and Health Insurance Company
21 provided competing life and health insurance products and services in Washington and Oregon
22 under the "Regence" brand. On April 1, 2012, Regence Life and Health officially changed its
23 corporate name and the brand name of its insurance products and services. Instead of choosing a
24 name that would create its own brand identity, Regence Life and Health is now doing business as
25 "LifeMap Assurance Company" offering "LifeMap"-branded insurance products and services.
26 The new corporate and brand names represent an obvious and intentional copy of the "LifeWise

1 Assurance Company®” and “LifeWise®” servicemarks, and are confusingly similar to the
2 LifeWise® branded products and services offered by Plaintiffs.

3 1.4 Defendant’s conduct threatens to impugn the goodwill and reputation of Plaintiffs
4 and will inflict confusion, deception, and mistake upon health insurance brokers, purchasers,
5 consumers, and others in the insurance services distribution chain in Washington and Oregon.
6 Further, because the LifeWise® brand is widely recognized in the insurance services industry,
7 Defendant’s use of virtually identical corporate and brand names will erode the distinctiveness of
8 the LifeWise® brand in the marketplace. Indeed, Defendant’s early promotional efforts have
9 already caused an erosion of the distinctiveness of the LifeWise® brand.

10 1.5 Plaintiffs seek preliminary and then permanent injunctive relief, actual damages,
11 treble damages, disgorgement of Defendant’s profits, attorneys’ fees and costs, and all other
12 relief cognizable in law and equity.

13 II. PARTIES

14 2.6 LifeWise Assurance Company is a Washington corporation with a principal place
15 of business at 7001 220th St. SW, Building 1, Mountlake Terrace, WA 98043. LifeWise
16 Assurance Company is the assignee of several federal and state servicemark registrations and/or
17 applications as described in more detail herein.

18 2.7 LifeWise Health Plan of Washington is a Washington corporation with a principal
19 place of business at 7001 220th St. SW, Building 1, Mountlake Terrace, WA 98043. LifeWise
20 Health Plan of Washington is a licensee of federally registered LifeWise® servicemarks and
21 Washington registered servicemarks for “LifeWise” and “LifeWise Health Plan of Washington.”

22 2.8 LifeWise Health Plan of Oregon, Inc. (“LifeWise Health Plan of Oregon”) is an
23 Oregon corporation with a principal place of business at 2020 SW 4th St. Ste 1000, Portland, OR
24 97201. LifeWise Health Plan of Oregon is a licensee of federally registered LifeWise®
25 servicemarks and Oregon registered servicemarks for “LifeWise” and “LifeWise Health Plan of
26 Oregon.”

1 2.9 Regence Life and Health Company d/b/a LifeMap Assurance Company is an
2 Oregon corporation with its principal place of business located at 100 SW Market Street, MS
3 E12B, Portland, OR 97207.

4 **III. JURISDICTION AND VENUE**

5 3.1 This Court has federal question jurisdiction over Plaintiffs’ Lanham Act claims
6 because they arise under 15 U.S.C. §§ 1114, 1125(a), and 28 U.S.C. §§ 1331, 1338(b). This
7 Court has supplemental jurisdiction over Plaintiffs’ state law claims pursuant to 28 U.S.C.
8 § 1367.

9 3.2 Defendant is subject to personal jurisdiction in this judicial district as it is
10 marketing the infringing products and services here; the effects of Defendant’s infringement,
11 unfair competition, and unfair and deceptive trade practices are felt in this judicial district; and
12 Defendant has otherwise made and established contacts sufficient to permit the Court’s exercise
13 of personal jurisdiction.

14 3.3 Venue for this action is proper in this judicial district pursuant to 28 U.S.C.
15 § 1391(b) and (c).

16 **IV. BACKGROUND FACTS**

17 4.4 LifeWise Assurance Company is the assignee of federal trademark applications
18 and several federal servicemark registrations—several of which are incontestable—covering
19 LifeWise® brand insurance products and services, including LifeWise®, LifeWise Assurance
20 Company®, LifeWise Fund Plans®, LifeWise Latitude®, LifeWise Essentials®, LifeWise
21 Universal®, LifeWise Dental Charter Plus®, LifeWise Dental Classic®, and Lifewise Dental
22 Vantage Plus® (collectively, the “LifeWise® Federal Marks”). True and correct copies of the
23 Certificates of Registration for the LifeWise® Federal Marks are attached hereto as Exhibit A.

24 4.5 LifeWise Assurance Company is also the assignee of several state servicemark
25 registrations in Washington and Oregon. The state servicemark registrations in Washington
26 include “LifeWise,” “LifeWise Assurance Company,” and “LifeWise Health Plan of

1 Washington.” The state servicemark registrations in Oregon include “LifeWise,” “LifeWise
2 Assurance Company,” and “LifeWise Health Plan of Oregon.” The state servicemark
3 registrations are collectively referred to as the “LifeWise State Marks.” True and correct copies
4 of the Certificates of Registration for the LifeWise State Marks are attached hereto as Exhibit B.

5 4.6 The written assignment vesting all right, title, and interest in the LifeWise®
6 Federal Marks to LifeWise Assurance Company has been duly recorded with the United States
7 Patent and Trademark Office. The written assignments vesting all right, title, and interest in the
8 LifeWise State Marks to LifeWise Assurance Company have been duly recorded with the
9 Washington and Oregon Secretaries of State. True and correct copies of the aforementioned
10 assignments in this paragraph are attached hereto as Exhibit C.

11 4.7 Starting in approximately 2003, LifeWise Assurance Company (both directly and
12 through its servicemark assignor and affiliated companies) began offering health-related
13 insurance services under the brand name “LifeWise®” in both Washington and Oregon. The
14 advertising, marketing, and promotion of the products and services protected by the LifeWise®
15 Federal Marks and the LifeWise State Marks in both Washington and Oregon is described in
16 more detail in the following paragraphs.

17 **A. The Advertising, Marketing, and Promotion of the LifeWise® Brand in Washington**

18 4.8 Since approximately 2003, health insurance policies and services offered under the
19 LifeWise® brand have been marketed for sale to citizens in Washington. These policies are
20 advertised, administered, and operated by the corporate entity LifeWise Health Plan of
21 Washington. As of February 2012, the number of consumers in the State of Washington that are
22 enrolled under individual policies issued by LifeWise Health Plan of Washington is
23 approximately 108,487. The year-over-year increases in enrollment since 2009 have been
24 significant. For example, enrollment increased 19% between 2009 and 2010. Enrollment
25 increased an additional 13% between 2010 and 2011.
26

1 4.9 LifeWise Assurance Company and LifeWise Health Plan of Washington have
2 invested substantial resources to market the LifeWise® brand to consumers, brokers, and others
3 in Washington. For example, over the last decade, the LifeWise® brand has been prominently
4 advertised through a variety of venues and media including, but not limited to:

- 5 (i) television stations and networks such as KAYU, KHQ, KREM, KXLY,
6 KING, KOMO, KIRO, KSTW, KCYU, KNDO, KIMA, FOX Sports,
7 CNN, TNT, USA, A&E, Discovery Channel, MSNBC, and FOX NEWS;
8 (ii) radio channels and networks including KCMS-FM, KEXPFM, KIRO-AM,
9 KJAQ-FM, KJR-FM, KKWF-FM, KMTT-FM, KOMO-AM, KOMO-FM,
10 KPLZ-FM, QMV-FM, KWRM-FM, KWJZ-FM, KZOK-FM, and
11 KUOW-FM;
12 (iii) advertisements and public health announcements in health and fitness
13 magazines and trade publications circulated through doctors' offices,
14 health clinics, hospitals, and other health and wellness venues such as
15 state-wide conventions, conferences, and tradeshow (true and correct
16 copies of just some of these advertisements and public health
17 announcements being attached hereto as Exhibit D);
18 (iv) billboards in prominent locations in Seattle and other metropolitan areas
19 throughout the state (true and correct copies of just some of these
20 billboard advertisements being attached hereto as Exhibit E);
21 (v) placards and mobile advertisements on buses travelling heavily populated
22 routes throughout the Seattle metropolitan area, including the downtown
23 corridor (true and correct copies of just some of these placard and mobile
24 advertisements being attached hereto as Exhibit F);
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1 (vi) corporate sponsorship of charitable events such as the Issaquah Health Fair
2 (true and correct copies of just some of the promotional materials from
3 these events being attached hereto as Exhibit G); and

4 (vii) websites such as <http://www.lifewiseac.com>, <http://www.lifewisewa.com>,
5 <http://www.boringlygood.com>, and <http://www.facebook.com> (true and
6 correct printouts from these websites, as they appear as of the date of this
7 Complaint, being attached hereto as Exhibit H).

8 4.10 The advertising and promotional campaigns referenced above prominently and
9 consistently feature and emphasize the servicemark LifeWise® for health-related products and
10 services.

11 4.11 Between 2009 and 2011 alone, nearly \$4,000,000 has been expended in
12 advertising and promoting the LifeWise® brand in Washington, with significant additional
13 expenditures budgeted for advertising and promotional endeavors in 2012.

14 4.12 The LifeWise® brand has received numerous awards, accolades, and
15 acknowledgments from reputable third-party organizations in the State of Washington. For
16 example, in November 2011 the Puget Sound Chapter of American Marketing awarded the
17 LifeWise® brand the inaugural “PULSE” Award—an award bestowed on marketers who
18 obtained “superior marketing creative results” and “who best understood the pulse of their
19 audience, the marketplace, and its objectives.” A true and correct copy of the PULSE Award is
20 attached hereto as Exhibit I. In 2011, the LifeWise® brand also received two Gold ADDY®
21 Awards from the Seattle Chapter of the American Advertising Federation. True and correct
22 copies of these ADDY Awards are attached hereto as Exhibit J.

23 4.13 Further, the LifeWise® brand has been the subject of recent news stories and
24 accounts touting the benefits associated with LifeWise® brand insurance services. For example,
25 The Columbian newspaper recently ran a story touting the benefits of the new LifeWise® “smart
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1 phone app” that will “put access to healthcare in [the] palm of your hand.” A true and correct
2 copy of this newspaper article is attached hereto as Exhibit K.

3 4.14 Because of the inherent distinctiveness of the LifeWise® name, coupled with
4 extensive advertising, promotion, and third-party recognition, the LifeWise® brand has acquired
5 substantial goodwill and represents a significant intangible asset.

6 4.15 In addition to being a substantial source of goodwill, the LifeWise® brand is
7 widely recognized in the insurance services industry among brokers and producers as being
8 uniquely associated with Plaintiffs’ insurance services and products.

9 **B. The Advertising, Marketing, and Promotion of the LifeWise® Brand in Oregon**

10 4.16 Since approximately 2002, health insurance policies and services offered under the
11 LifeWise® brand have been marketed for sale in Oregon. These policies are advertised,
12 administered, and operated by the corporate entity LifeWise Health Plan of Oregon. As of
13 February 2012, the number of consumers in the State of Oregon that are enrolled in the LifeWise
14 Health Plan of Oregon is approximately 22,397.

15 4.17 LifeWise Assurance Company and LifeWise Health Plan of Oregon have invested
16 substantial resources to market the LifeWise® brand to consumers in Oregon. For example, over
17 the last several years, the LifeWise® brand has been prominently advertised through a variety of
18 venues and media including, but not limited to:

- 19 (i) television stations and networks such as KGW, KATU, KOIN, TPTV,
20 CNN, TNT, USA, A&E, The Discovery Channel, MSNBC, and the FOX
21 NEWS Channel;
- 22 (ii) radio channels and networks including KEX-AM, KFBW-FM, KFIS-FM,
23 KGON-FM, KINK-FM, KKCW-FM, KUPL-FM, KXL-AM;
- 24 (iii) advertisements and public health announcements in health and fitness
25 magazines and trade publications circulated through doctors’ offices,
26 health clinics, hospitals, and other health and wellness venues such as

1 state-wide conventions, conferences, and tradeshow(true and correct
2 copies of just some of these advertisements and public health
3 announcements being attached hereto as Exhibit L);

4 (iv) newspapers and magazines circulated regionally and state-wide, including
5 The Portland Journal of Business, TIME, Newsweek, and US News &
6 World Report (true and correct copies of just some of these advertisements
7 being attached hereto as Exhibit M);

8 (v) billboards in prominent locations in Portland (true and correct copies of
9 just some of these billboard advertisements being attached hereto as
10 Exhibit N);

11 (vi) placards and mobile advertisements on trains travelling heavily populated
12 routes throughout the Portland metropolitan area, including the downtown
13 corridor (true and correct copies of just some of these placard and mobile
14 advertisements being attached hereto as Exhibit O);

15 (vii) corporate sponsorship of charitable events such as Make A Wish
16 Foundation, American Diabetes Association Expo and Classroom Law
17 Project (true and correct copies of just some of the promotional materials
18 from these events being attached hereto as Exhibit P); and

19 (viii) websites such as <http://www.lifewiseac.com>, <http://www.lifewiseor.com>,
20 and <http://www.facebook.com> (true and correct printouts from these
21 websites, as they appeared as of the date of this Complaint, being attached
22 hereto as Exhibit Q).

23 4.18 Between 2009 and 2011 alone, over \$4,000,000 has been expended in advertising
24 and promoting the LifeWise® Brand in Oregon, with significant amounts budgeted for
25 advertising expenditures and promotional endeavors in 2012.

1 4.19 Because of the inherent distinctiveness of the LifeWise® name, coupled with
2 extensive advertising, promotion, and third-party recognition, the LifeWise® brand has acquired
3 substantial goodwill and represents a significant intangible asset.

4 4.20 In addition to being a substantial source of goodwill, the LifeWise® brand is
5 widely recognized in the insurance services industry among brokers and producers as being
6 uniquely associated with Plaintiffs' insurance services and products.

7 **C. Defendant's Adoption of the "LifeMap Assurance Company" and "LifeMap" Names**

8 4.21 For many years, Defendant Regence Life and Health Insurance Company offered
9 competing life and health insurance products and services in Washington and Oregon under the
10 "Regence" brand. Just recently, Regence Life and Health announced to insurance brokers,
11 producers, and others that effective April 1, 2012, Regence Life and Health would "transition" to
12 become "LifeMap Assurance Company" and would use "LifeMap" as the brand name for its
13 insurance services and product offerings. True and correct copies of these announcements are
14 attached hereto as Exhibit R.

15 4.22 On April 1, 2012, Defendant's LifeMap website went "live" at
16 <http://www.lifemapco.com> where a variety of its life and health insurance products and services
17 are advertised. The website prominently features the "LifeMap" brand, which is named on
18 virtually each page of the website. True and correct copies of printouts from Defendant's new
19 website are attached hereto as Exhibit S.

20 4.23 In the "About LifeMap" section of the website, Defendant seeks to capitalize on
21 the infringing and diluting nature of the LifeMap name by representing to customers that
22 "LifeMap" has been around for "decades," even though the LifeMap brand is literally a few days
23 old:

24 LifeMap has a long history of helping people choose the right
25 insurance products for all of life's transitions. Beginning in 1964,
26 as an ancillary offshoot of a major medical plan, LifeMap began to
fill in the gaps of an employer's benefits package. Through the
years our product offerings have grown, and will continue to

1 expand, to better suit the needs of our customers, as we continue to
2 pursue our mission, to provide high-value products for all of life's
3 transitions. Our goal is to provide those products that help provide
4 financial security for our customers, wherever there is a potential
5 need for the kind of financial security that allows them to live life
6 to its fullest.

6 Exhibit S at p. 3.

7 4.24 Defendant's use of the LifeMap Assurance Company and LifeMap names
8 represents an obvious, willful, and malicious attempt to trade on the goodwill of the LifeWise®
9 brand. Specifically, consumers, brokers, producers, and others in Washington and Oregon are
10 likely to be deceived into believing that Defendant's "LifeMap" insurance services and products
11 are somehow sponsored by, affiliated with, or connected with Plaintiffs and the LifeWise®
12 brand.

13 4.25 Additionally, because there is such a high degree of recognition of the LifeWise®
14 brand name among insurance brokers, producers, and others in Washington and Oregon,
15 Defendant's use of the names "LifeMap Assurance Company" and "LifeMap" will erode the
16 distinctiveness of the LifeWise® brand. Indeed, several brokers and producers have already
17 made comments indicating that such erosion is taking place in the marketplace.

18 **V. CAUSES OF ACTION**

19 **A. COUNT I**

20 *(By LifeWise Assurance Company)*

21 **Infringement of LifeWise® Servicemarks U.S. Reg. Nos. 2,349,294, 2,992,590, and 3,096,117**
22 **Section 32 of the Lanham Act, 15 U.S.C. § 1114**

23 5.1 LifeWise Assurance Company specifically realleges and incorporates by reference
24 each and every allegation contained in Paragraphs 1.1 through 4.25 hereof.

25 5.2 Defendant's acts alleged herein are likely to cause confusion, or to cause mistake,
26 or to deceive as to the affiliation, connection, or association of Defendant with LifeWise

1 Assurance Company or as to the sponsorship or approval of Defendant's goods or services by
2 LifeWise Assurance Company.

3 5.3 By marketing and selling insurance products and services under the names
4 "LifeMap" and "LifeMap Assurance Company" Defendant has infringed on the LifeWise®
5 servicemarks, U.S. Reg. Nos. 2,349,294, 2,992,590, and 3,096,117, in violation of federal law.

6 5.4 Defendant's conduct has been willful, intentional, deliberate, and malicious.

7 5.5 LifeWise Assurance Company has no adequate remedy at law for the foregoing
8 wrongful acts. LifeWise Assurance Company has been and, absent injunctive relief, will
9 continue to be irreparably harmed by Defendant's actions.

10 **B. COUNT II**
11 **(By All Plaintiffs)**

12 **False Designation of Origin**
13 **Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)**

14 5.6 Plaintiffs specifically reallege and incorporate by reference each and every
15 allegation contained in Paragraphs 1.1 through 5.5 hereof.

16 5.7 LifeWise Assurance Company is the assignee of the LifeWise® Federal Marks,
17 including U.S. Reg. Nos. 2,349,294, 2,992,590, and 3,096,117. LifeWise Health Plan of
18 Washington and LifeWise Health Plan of Oregon are both licensees of U.S. Reg. Nos. 2,349,294
19 and 2,992,590.

20 5.8 By marketing and selling insurance products and services under the names
21 "LifeMap" and "LifeMap Assurance Company," Defendant has falsely designated the origin of
22 its products and services in a manner that is likely to cause confusion, or to cause mistake, or to
23 deceive as to the affiliation, connection, or association of Defendant with LifeWise Assurance
24 Company, LifeWise Health Plan of Washington, and/or LifeWise Health Plan of Oregon, or as to
25 the sponsorship or approval of Defendant's goods or services by LifeWise Assurance Company,
26 LifeWise Health Plan of Washington, and/or LifeWise Health Plan of Oregon.

1 5.9 Plaintiffs are likely to be damaged by Defendant's wrongful conduct. All three
2 Plaintiffs have invested significant time, resources, money, and effort into developing the
3 LifeWise® brand for health insurance products and related goods and services in Washington and
4 Oregon. By marketing and selling insurance products and services under the names "LifeMap"
5 and "LifeMap Assurance Company," Defendant is attempting to piggyback on the goodwill and
6 reputation built by the Plaintiffs in the LifeWise® brand.

7 5.10 Defendant's conduct has been willful, intentional, deliberate, and malicious.

8 5.11 Plaintiffs have no adequate remedy at law for the foregoing wrongful conduct.
9 Plaintiffs have been and, absent injunctive relief, will continue to be irreparably harmed by
10 Defendant's actions.

11 **C. COUNT III**
12 *(By LifeWise Assurance Company)*

13 **Infringement of State-Registered Servicemarks LifeWise, LifeWise Assurance Company,**
14 **and LifeWise Health Plan of Washington**
15 **in Violation of RCW 19.77**

16 5.12 LifeWise Assurance Company specifically realleges and incorporates by reference
17 each and every allegation contained in Paragraphs 1.1 through 5.11 hereof.

18 5.13 LifeWise Assurance Company is the assignee of the Washington registered
19 servicemarks LifeWise, LifeWise Assurance Company, and LifeWise Health Plan of
20 Washington.

21 5.14 Defendant's acts alleged herein are likely to cause confusion, or to cause mistake,
22 or to deceive as to the affiliation, connection, or association of Defendant with LifeWise
23 Assurance Company, or as to the sponsorship or approval of Defendant's goods or services by
24 LifeWise Assurance Company.

25 5.15 By marketing and selling insurance products and services under the names
26 "LifeMap" and "LifeMap Assurance Company" Defendant has infringed on the state-registered
servicemarks LifeWise, LifeWise Assurance Company, and LifeWise Health Plan of Washington
in violation of RCW 19.77.

1 5.16 Defendant's conduct has been willful, intentional, deliberate, and malicious.

2 5.17 LifeWise Assurance Company has no adequate remedy at law for the foregoing
3 wrongful conduct. LifeWise Assurance Company has been and, absent injunctive relief, will
4 continue to be irreparably harmed by Defendant's actions.

5 **D. COUNT IV**
6 ***(By LifeWise Assurance Company)***

7 **Dilution of Servicemarks LifeWise, LifeWise Assurance Company, LifeWise Health Plan of**
8 **Washington in Violation of RCW 19.77.140**

9 5.18 LifeWise Assurance Company realleges and incorporates by reference each and
10 every allegation contained in Paragraphs 1.1 through 5.17 hereof.

11 5.19 The servicemarks LifeWise, LifeWise Assurance Company, and LifeWise Health
12 Plan of Washington enjoy widespread recognition by insurance brokers and producers in
13 Washington and are strongly associated with a single source that provides insurance services and
14 products to consumers in this state.

15 5.20 By adopting and using the names "LifeMap Assurance Company" and "LifeMap,"
16 Defendants are eroding the distinctiveness of the LifeWise® brand in violation of RCW
17 19.77.140.

18 5.21 LifeWise Assurance Company has no adequate remedy at law for the foregoing
19 wrongful conduct. LifeWise Assurance Company has been and, absent injunctive relief, will
20 continue to be irreparably harmed by Defendant's actions.

21 **E. COUNT V**
22 ***(By All Plaintiffs)***

23 **Unfair Competition Under Washington Common Law**

24 5.22 Plaintiffs reallege and incorporate by reference each and every allegation
25 contained in Paragraphs 1.1 through 5.21 hereof.

26 5.23 LifeWise Assurance Company is the assignee of the LifeWise State Marks and
LifeWise Federal Marks, which have been used in Washington in connection with the sale,

1 promotion, and marketing of insurance-related products and services. LifeWise Health Plan of
2 Washington is a licensee of U.S. Reg. Nos. 2,349,294 and 2,992,590, as well as Washington state
3 servicemark registrations for “LifeWise” and “LifeWise Health Plan of Washington.” LifeWise
4 Health Plan of Oregon is a licensee of U.S. Reg. Nos. 2,349,294 and 2,992,590, as well as
5 Oregon state servicemark registrations for “LifeWise” and “LifeWise Health Plan of Oregon.”

6 5.24 By marketing and selling insurance products and services under the names
7 “LifeMap” and “LifeMap Assurance Company,” Defendant has falsely designated the origin of
8 its products and services in a manner that is likely to cause confusion, or to cause mistake, or to
9 deceive as to the affiliation, connection, or association of Defendant with LifeWise Assurance
10 Company, LifeWise Health Plan of Washington, and/or LifeWise Health Plan of Oregon, or as to
11 the sponsorship or approval of Defendant’s goods or services by LifeWise Assurance Company,
12 LifeWise Health Plan of Washington, and/or LifeWise Health Plan of Oregon.

13 5.25 Plaintiffs are likely to be damaged by Defendant’s wrongful conduct. All three
14 Plaintiffs have invested significant time, resources, money, and effort into developing the
15 LifeWise® brand for health insurance products and related goods and services in Washington and
16 Oregon. By marketing and selling insurance products and services under the names LifeMap and
17 LifeMap Assurance Company, Defendant is attempting to piggyback on the goodwill and
18 reputation built by the Plaintiffs in the LifeWise® brand.

19 5.26 Defendant’s conduct has been willful, intentional, deliberate, and malicious.

20 5.27 Plaintiffs have no adequate remedy at law for the foregoing wrongful conduct.
21 Plaintiffs have been and, absent injunctive relief, will continue to be irreparably harmed by
22 Defendant’s actions.

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F. COUNT VI
(By All Plaintiffs)

Violation of Washington Consumer Protection Act, RCW 19.86

5.28 Plaintiffs specifically reallege and incorporate by reference each and every allegation contained in Paragraphs 1.1 through 5.27 hereof.

5.29 Defendant's acts alleged herein are likely to cause confusion, to cause mistake, and to deceive as to the affiliation, connection, or association of Defendant with LifeWise Assurance Company and/or LifeWise Health Plan of Washington and/or LifeWise Health Plan of Oregon, or as to the sponsorship or approval of Defendant's goods or services by LifeWise Assurance Company and/or LifeWise Health Plan of Washington and/or LifeWise Health Plan of Oregon.

5.30 By marketing and selling insurance products and services under the names "LifeMap" and "LifeMap Assurance Company" Defendant has engaged in unfair and deceptive trade practices that adversely affects that public interest in violation of RCW 19.86.

5.31 Defendant's conduct has been willful, intentional, deliberate, and malicious.

5.32 LifeWise Assurance Company, LifeWise Health Plan of Washington, and LifeWise Health Plan of Oregon have no adequate remedy at law for the foregoing wrongful conduct.

5.33 LifeWise Assurance Company, LifeWise Health Plan of Washington, and LifeWise Health Plan of Oregon have been and, absent injunctive relief, will continue to be irreparably harmed by Defendant's actions.

G. COUNT VII
(By All Plaintiffs)

Unjust Enrichment

5.34 Plaintiffs specifically reallege and incorporate by reference each and every allegation contained in Paragraphs 1.1 through 5.33 hereof.

1 5.35 For many years, Plaintiffs and their affiliates have expended substantial sums of
2 money creating, advertising, promoting, establishing, and supporting the LifeWise® brand.

3 5.36 As a result of these substantial investments and their commitment to quality,
4 Plaintiffs have earned substantial goodwill and a positive reputation with consumers, brokers, and
5 others in the insurance product and services market.

6 5.37 Defendant is aware of the above facts and has sought to wrongfully capitalize on
7 Plaintiffs' reputation and goodwill by advertising and promoting infringing products and services
8 under the names LifeMap and LifeMap Assurance Company.

9 5.38 Defendant has unjustly received the benefit of the substantial investment in the
10 LifeWise® brand by Plaintiffs and their affiliates and of Plaintiffs' goodwill and reputation.

11 5.39 Defendant's conduct has been willful, intentional, deliberate, and malicious.

12 5.40 Defendant has been unjustly enriched.

13 5.41 It would violate the principles of justice, equity, and good conscience for
14 Defendant to retain the benefit described above.

15 5.42 To avoid an unjust enrichment, Plaintiffs should be awarded damages reflecting
16 Defendant's enrichment, among other relief.

17 5.43 Plaintiffs have no adequate remedy at law for the foregoing wrongful conduct.
18 Plaintiffs have been and, absent injunctive relief, will continue to be irreparably harmed by
19 Defendant's actions.

20 **VI. PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs pray for Judgment and an Order from this Court as follows:

22 A. That the Court declare and find that Defendant's use of LifeMap and LifeMap
23 Assurance Company:

24 (i) willfully, intentionally, and maliciously infringes LifeWise® Servicemarks U.S.
25 Reg. Nos. 2,349,294, 2,992,590, and 3,096,117 in violation of the Lanham Act;

26 (ii) willfully, intentionally, and maliciously violates RCW 19.77 and RCW 19.86;

1 (iii) willfully, intentionally, and maliciously violates the Washington common law
2 proscription against unfair competition; and

3 (iv) has unjustly enriched Defendant.

4 B. That the Court enter a preliminary and thereafter a permanent injunction
5 prohibiting Defendant and its officers, agents, servants, and employees, as well as those persons
6 in active concert, privity, or participation with them, or any of their successors or assigns, from:

7 (i) using in connection with any product, service, website, or any other business any
8 name which so resembles, copies, imitates, or simulates the Plaintiffs' servicemarks as to be
9 likely to cause confusion, cause mistake, or to deceive;

10 (ii) using in any manner in connection with the advertising, promotion, marketing,
11 sale, or offer for sale any misleading advertising, false designations of origin, or false
12 representation, or otherwise committing any acts of unfair competition, which may cause the
13 trade or the public to mistakenly believe that Defendant or its businesses, services, or products
14 are related to, affiliated with, associated or connected with, or sponsored or approved by
15 Plaintiffs or the LifeWise® brand; and

16 (iii) engaging in any other act that may, or is intended, designed, or calculated to,
17 injure Plaintiffs' business reputation or to dilute Plaintiffs' servicemarks;

18 C. That Defendant be directed to file with this Court and serve upon Plaintiffs, within
19 30 days after entry of this Court's injunction order, a written report by Defendant under oath
20 setting forth in detail the manner in which it has complied with such order;

21 D. That Defendant be required to deliver to Plaintiffs for destruction or other
22 disposition all remaining items bearing the LifeMap or LifeMap Assurance Company names;

23 E. That Defendant be ordered to disseminate corrective advertisement in a form
24 approved by the Court;

1 F. That Plaintiffs be awarded all profits, gains, and other advantages realized by
2 Defendant on account of its infringement, unfair competition, and unfair and deceptive trade
3 practices;

4 G. That Plaintiffs be awarded three times their actual damages pursuant to 15 U.S.C.
5 § 1117(a);

6 H. That Plaintiffs be awarded the taxable costs of this action, including their
7 attorneys' fees;

8 I. That Plaintiffs be granted such other and further relief as the Court deems just and
9 equitable.

10 **JURY TRIAL DEMAND**

11 Plaintiffs hereby demand a trial by jury on all issues so triable.

12 DATED this 4th day of April, 2012.

13 K&L GATES LLP

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VERIFICATION

I have reviewed the contents of the foregoing Verified Complaint for Damages and Injunctive Relief. I declare under penalty of perjury that the contents thereof are true and accurate. Dated this 3rd day of April, 2012.



Name: Jeff Roe

Titles: President & CEO, LifeWise Health Plan of Washington
Vice President, LifeWise Health Plan of Oregon, Inc.
Vice President, LifeWise Assurance Company