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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANDREW GLASSMAN, et al.,

Plaintiffs - Appellants,

v.

CROWN LIFE INSURANCE
COMPANY, et al.,

Defendants - Appellees.

No. 12-55095

D.C. No. 2:11-CV-03576-SVW
(JCx)

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Argued and Submitted October 10, 2013
Pasadena, California

Before: PAEZ and HURWITZ, Circuit Judges, and ERICKSON, Chief District
Judge.**

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable Ralph R. Erickson, Chief District Judge for the U.S.
District Court for the District of North Dakota, sitting by designation.

Andrew and Marilyn Glassman appeal the district court's dismissal of their claims for breach of contract and breach of the implied covenant of good faith and fair dealing against Crown Life Insurance Company and its successor Reassure America Life Insurance Company (collectively "Crown Life"). We have jurisdiction pursuant to 28 U.S.C. § 1291. Reviewing de novo, *Zimmerman v. City of Oakland*, 255 F.3d 734, 737 (9th Cir. 2001), we affirm.

The Glassmans contend that an Indexed Adjustment of Prior Average Monthly Net Income Benefit rider (the "Rider") entitled Mr. Glassman to periodic cost-of-living adjustments on his total disability benefits. The language of the Rider unambiguously applies only to partial or "residual" disability benefits, rather than total disability benefits. *See AIU Ins. Co. v. Superior Court*, 51 Cal. 3d 807, 822 (1990). Accordingly, the district court did not err in granting Crown Life's motion to dismiss the Glassmans' claims. With this determination, the remaining issue regarding the timeliness of those claims is moot.

For the foregoing reasons, the district court's judgment dismissing the complaint is **AFFIRMED**.