

## Life Industry Class Action Trends in the First Half of 2020

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The first half of 2020 saw an uptick in the filing of class action lawsuits against life insurance companies.

Life insurance companies have continued to be the target of putative class actions in California challenging the lapse or termination of policies for nonpayment of premium. Since we last reported on the subject in April, several more actions have been filed in California federal courts. See “Policy Lapse Notice Claims on the Rise in California,” *Expect Focus — Life, Annuity, and Retirement Solutions* (April 2020). The actions accuse various companies of failing to comply with provisions of the California Insurance Code, which require that life insurance policies include a 60-day grace period before any lapse for nonpayment and that insurers give at least 30 days’ notice of lapse or termination to the policies’ owners and their designees. The actions all seek to certify classes of “past, present, and future owners or beneficiaries” of policies in force after implementation of the California lapse laws, which have or will experience lapse, termination, and/or reinstatement without the required notice and/or grace period. The plaintiffs seek declaratory and injunctive relief; damages for breach of contract, unfair competition, and violation of the implied covenant of good faith and fair dealing; and, in some cases, damages for a financial elder abuse subclass.

Class action litigation challenging the amounts charged for cost of insurance (COI) also endures. See “2019 Year-End Class Action Roundup,” *Expect Focus — Life, Annuity, and Retirement Solutions* (December 2019). Numerous actions were filed across the country against life insurers during the first half of 2020:

- Putative class actions were filed, for example, in Minnesota and Arizona federal courts claiming an insurer breached the plaintiffs’ policies by using “unauthorized” factors when determining monthly COI rates, which caused the COI charges deducted from the policies’ account values to be “inflated.” Plaintiffs contend that, by “loading” COI rates with “unauthorized” expenses, the insurer deducted expenses from their account values that exceeded what was allowed by the policies. These actions seek certification of statewide classes, damages for breach of contract and conversion, and declaratory and injunctive relief.
- An action in a California federal court claims that an insurer “wrongly” based COI rates for its universal life policies on factors other than expectations of future mortality experience. It further contends that the insurer breached its policies by failing to decrease its COI rates due to improved mortality experience. The complaint seeks certification of national and California subclasses and asserts claims for breach of contract, breach of the duty of good faith and fair dealing, unjust enrichment, conversion, violation of California’s unfair competition law, and declaratory and injunctive relief.
- As a final example, a putative class action filed in a Georgia federal court accuses the defendant of increasing deductions from its universal life policy’s accumulation accounts to prompt so-called shock lapses of policies owned by older insureds with a “higher rate of mortality.” The complaint includes claims for RICO violations, breach of contract, fraud, and declaratory and injunctive relief and seeks to certify both a nationwide class and a Georgia subclass.

Finally, the industry has been the subject of a handful of “miscellaneous” class action filings in the first half of 2020, including an **Americans with Disabilities Act** action claiming the company’s website is not equally accessible to blind and visually impaired consumers; a **Telephone Consumer Protection Act** action alleging that agents and marketing organizations placed unsolicited autodialed and prerecorded telemarketing calls without prior express consent; claims by back-office employees for allegedly unpaid **overtime**; and an action challenging premium rate increases on **long-term care** policies.

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