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**Court Rejects Conseco Life Insurance Company's Attempt
to Reduce Size of National Class Action**

*Conseco's settlement with state insurance
regulators does not exclude policyholders from class*

Washington, D.C. – The United States District Court for the Northern District of California has rejected an attempt by Conseco Life Insurance Company to exclude over three thousand “LifeTrend” policyholders from a pending national class action. Conseco asserted that policyholders who accepted so-called “optional benefits” under a settlement agreement that Conseco entered into with state insurance regulators should not be allowed to participate in the class action. Any policyholder who wanted to accept optional benefits under the regulatory settlement had to sign a release form, but the court agreed with the plaintiff policyholders who sued Conseco that “the meaning of the release is unclear.” Therefore, the court ruled, Conseco’s request to exclude policyholders who signed the release form was “premature.”

In November 2010, Conseco disclosed that at least 3,000 policyholders had signed the regulatory settlement release form and that the company expected to receive executed release forms from additional policyholders. The deadline for policyholders to submit forms requesting optional benefits under the regulatory settlement has now passed.

In their pending national class action, the plaintiff policyholders allege that Conseco is breaching over 10,000 LifeTrend insurance policies that were sold in the 1980s and 1990s, and that Conseco’s contractual violations – including improper premium charges and improper deductions from policyholders’ accounts – could result in losses of tens of thousands of dollars per policyholder.

The LifeTrend policies were sold as “vanishing premium” life insurance policies. Under the policy language, policyholders had to pay large annual premiums during the first five years in which the policies were in effect, after which the policies would be fully paid up. The plaintiffs commenced litigation after Conseco sent each of them a form letter in October 2008 stating that their policies had become “underfunded” and that the company intended to resume charging annual premiums and increase monthly cost-of-insurance deductions and expense charges. Conseco’s letter asserted that the company could have imposed these premiums and charges many years earlier but that it had not previously done so due to an “administrative error.”



In December 2008, Consecos suspended the changes it had announced two months earlier, after several state insurance regulators initiated investigations. But in June 2010, Consecos reached an agreement with the state insurance regulators. Under the regulatory settlement agreement, Consecos is now imposing premiums and charges very similar to those it announced in October 2008. Plaintiffs contend in the class action that these new premiums and charges are not authorized under the policies, notwithstanding the fact that state insurance regulators have allowed Consecos to proceed with them.

“Consecos has tried to beat our class action by hiding behind the state insurance regulators, but the company’s tactic has failed so far,” said Stephen Weisbrod of Gilbert LLP in Washington, D.C., who represents the Plaintiffs. “Regardless of what the regulators do, there are thousands of policyholders across the country who believe that Consecos should be required to comply with the terms of its insurance policies, and Consecos’s new premiums and charges simply are not allowed under the policies’ plain terms,” Weisbrod said. “Now Consecos is going to have to justify its conduct in a court of law, not just in closed-door negotiations with state regulators,” Weisbrod said.

“Defeating Consecos’s attempt to exclude policyholders from the class at this stage of the case means that thousands of additional people across the country may be eligible to benefit from any recovery we obtain for the class,” said David Millstein of San Francisco-based Millstein & Associates, who also represents the Plaintiffs. “This is important because many of these people planned their families’ financial futures around these insurance policies,” said Millstein.

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