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Federal Appeals Court Opens Way For Class Action Against 3 Insurers

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A federal appeals court opened the way for class-action lawsuits to proceed against three life insurers accused of charging higher premiums to black customers than to whites on older, small life-insurance policies.

The ruling, which overturned a lower-court order, is the first by a federal appeals court on whether such cases could proceed as class actions rather than separate lawsuits by individuals.

A series of lawsuits is pending around the country, alleging that life insurers charged higher rates to blacks on so-called industrial life insurance policies, which have face values of as much as \$2,000 and most companies stopped selling in the 1970s.

Policies Remain in Effect

Millions of such policies remain in effect. Many companies had officially charged higher rates to blacks, based on the belief that they had shorter life expectancies due to their race.

The practice, and the fact that many companies continued until recently to charge higher rates to blacks on these policies, was reported in a page-one story in The Wall Street Journal in 2000.

The decision returned Wednesday by the U.S. Fifth Circuit Court of Appeals in New Orleans overturned a decision by U.S. District Judge Martin L. C. Feldman, who had ruled that individual cases were too dissimilar to be lumped together into class actions.

The appeals court didn't specifically order the cases to go forward as class actions. But it rejected Judge Feldman's legal reasoning in denying class certification, including his interpretation of a crucial case, and sent the issue back to him for reconsideration.

Little Room to Move

Of the three companies affected directly by the ruling, the one with the largest number of industrial life insurance policies in force is Monumental Life Insurance Co., a unit of Netherlands-based **Aegon** NV. "We are currently reviewing the court's opinion but cannot comment on pending litigation," a spokeswoman said.

The two other companies named in the decision are mutual life-insurance companies, owned by policyholders: Cincinnati-based Western & Southern Life Insurance Co., a unit

of Western & Southern Financial Group; and **American National Insurance** Co. of Galveston, Texas.

A Western & Southern spokesman said the company is "very disappointed in the court ruling" but noted that it didn't specifically order Judge Feldman to grant class certification.

He said the insurer continues to believe that the cases shouldn't be consolidated into a single lawsuit. A spokesman for American National didn't return calls seeking comment.

Several cases involving very large life insurers already have been settled, with compensation paid to black policyholders, although the companies didn't admit any wrongdoing.