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Insurance Companies Conspired to Inflate Bail Bond Premiums Contends Lawsuit Brought by Lieff Cabraser and Public Interest Groups

Suit filed on behalf of thousands of Californians alleges conspiracy in the bail industry to fix prices and inflate bail bond premiums, making it more difficult for people to afford bail

SAN FRANCISCO — In a first-of-its-kind class action lawsuit filed today in California Superior Court, the law firm of Lieff Cabraser Heimann & Bernstein, LLP, Justice Catalyst, Public Counsel, the National Consumer Law Center, and Towards Justice allege that an antitrust conspiracy has fixed the prices of the premiums paid for commercial bail bonds since at least 2004. Bail bonds are sold by thousands of bail agents to arrested Californians and their families. But these agents, and the premiums they charge, are ultimately controlled by a small number of businesses called "sureties," which function largely like insurance companies. According to the complaint, the surety co-conspirators, through the bail agents they control, have demanded an inflated percentage of the bond—generally as much as 10%—as a non-refundable premium, refusing to compete to lower prices. The prices have stayed fixed even though discounting is permitted, pursuant to an agreement they have maintained for years.

"Everyone in our society deserves the benefits of competition, especially when their personal freedom is on the line," **said Dean Harvey, a partner at Lieff Cabraser.**

According to the complaint, approximately 28% of individuals (approximately 180,000 people) booked on misdemeanors or felonies in California from October 2011 to October 2015 were released pretrial on bail. Nearly all rely on commercial surety bonds. And every year between 2011 and 2013, California-licensed sureties underwrote bonds with a face value of more than $4.4 billion and collected more than $308 million in nonrefundable premium fees per year, on average, from arrestees and their families.

"Cash bail may be on the retreat in California, but we filed this lawsuit to get justice for those who are harmed by the surety cartel," **said Ben Elga, executive director of Justice Catalyst.** "The surety cartel's overpriced bail bonds harm thousands of Californians, including people who were arrested but never even charged, and family members who paid the inflated price to secure the release of their loved ones."

In California, nearly one million people are arrested and taken into custody every year. Many are released if they can post a bond that will be returned to them after they appear for scheduled court dates. These bonds typically require far more than what most people can pay out-of-pocket. Arrestees who cannot afford the full bond will remain in jail, away from their jobs and families, unless they can purchase a commercial bail bond by paying a non-refundable premium to a bail agent. The bond itself is backed by one of a handful of sureties. While the law allows for negotiation over the final price, sureties have colluded to ensure that prices remain stable and inflated above competitive levels.

“The commercial bail industry profits from taking advantage of people at their most vulnerable: when they face a choice between making payment under the offered terms, or seeing a loved one stay in jail,” **said Stuart Rossman, director of litigation at the National Consumer Law Center.** **“**The scheme to inflate the price of commercial bail perpetuates an unfair system that entraps heavily-policed California communities in harmful cycles of poverty and consumer debt.”

“This rigged system disproportionately hurts low-income folks and their families, who are often the ones scrambling to get their loved ones freed from jail and back home,” **said Stephanie Carroll, a senior staff attorney with Public Counsel.** “Despite representations from the bail industry that a 10% premium is required, we know that legally they can charge less.”

This class action seeks damages for many thousands of Californians who allege they have overpaid for unlawfully inflated bail bond premiums due to the elimination of competition in the market for bail bonds—a violation of California’s antitrust laws.

“We’re confident that someday, California will eradicate cash bail entirely. In the meantime, Californians should have the power that comes from a competitive market and the ability to shop around and negotiate for cheaper bail bond premiums,” **said David Seligman, director of Towards Justice.** “The bail sureties have profited for too long off their collusive conduct on the backs of some of the most marginalized members of society.”

Those who may have a claim should contact Lieff Cabraser at https://lieffcabraser.com/antitrust/cal-bail-bonds/.

Read a copy of the Complaint available at https://lieffcabraser.com/pdf/california_bail_bonds_complaint.pdf.

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