

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>LARRY G. DOCKERY, on behalf of himself and all others similarly situated,</p> <p style="text-align: center;">Plaintiffs</p> <p style="text-align: center;">v.</p> <p>STEPHEN E. HERETICK, et al.,</p> <p style="text-align: center;">Defendants</p> <p>And</p> <p>NEW YORK LIFE INSURANCE COMPANY, et al.,</p> <p style="text-align: center;">Nominal Defendants</p>	<p>CIVIL ACTION</p> <p>NO. 17-4114</p>
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**ORDER RE: DEFENDANTS' MOTIONS TO DISMISS,
GRANTING IN PART AND DENYING IN PART**

AND NOW, this 14th day of May, 2019, upon consideration of Defendants' Motions to Dismiss Plaintiff's Amended Class Action Complaint (ECF 78, 79, 80) and Defendants' Supplemental Motions to Dismiss Plaintiff's Second Amended Class Action Complaint (ECF 100, 101, 102), and all memoranda and letter briefs filed relating to those Motions, after holding oral argument on the Motions on February 19, 2019, and for the reasons set out in the accompanying Memorandum, it is hereby ORDERED that:

1. Defendants' Motions are DENIED as to Counts I, II, III, IV, and V; and
2. Defendants' Motions are GRANTED as to Counts VI, VII, and VIII; Plaintiff's claims under Counts VI, VII, and VIII are DISMISSED WITHOUT PREJUDICE.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.

O:\CIVIL 17\17-4114, Dockery v. Heretick\17cv4114 Order re Mots to Dismiss