MassMutual Didn’t Stiff Policyholder Class, Jury Finds

Share us on: By **Daniel Siegal**

Law360 (February 28, 2018, 9:51 PM EST) -- MassMutual did not improperly withhold dividends from a class of hundreds of term life insurance policyholders, a California jury found Tuesday, siding with the insurer and finding the policies in question never generated enough profit to warrant dividends under the policy agreements.

After deliberating for roughly two days following a 12-day trial, the jury returned with a verdict in favor of Massachusetts Mutual Life Insurance Co., rejecting named plaintiff Christina Chavez’s claims that the insurer had breached its contracts with hundreds of people who had purchased participating 20-year term life insurance, or T20G policies, from 2000 to 2004 in the Los Angeles area.

As a mutual insurance company owned by its policyholders, MassMutual pays out its excess profits to “participating” policyholders each year in the form of dividends, but during **Friday’s closing arguments,** class attorney Timothy Morris of Gianelli & Morris told the jury that the company had shirked its duties by refusing to actually do the math and determine if the T20G policies were entitled to dividends each year. Morris said that MassMutual actually owed the class a total of $717,000 in dividends.

On Tuesday, the jury found that MassMutual had failed to make the annual determination of whether the T20G policies had generated sufficient profits to warrant dividends, but sided with the insurer in holding the plaintiffs had failed to prove that the policies actually did generate such profits.

MassMutual spokesperson Michael McNamara said in a statement Wednesday that the company was very pleased with the verdict.

“After close to a decade of protracted litigation, a California jury confirmed what MassMutual has always known: that these policies never earned, and were therefore never entitled to receive, dividends,” he said.

An attorney for the class did not immediately respond to a request for comment on Wednesday.

Chavez filed suit in April 2010, and in her trial brief filed last month contends that as part of the language of the participating life insurance policies, the insurer was mandated to annually determine those policies’ contributions to the company’s excess profits, or “divisible surplus,” and return their fair share in a dividend.

Jennifer Keller of Keller Anderle LLP, representing MassMutual, defended the company during closing arguments by focusing on Chavez’s actuarial expert Tom Bakos, telling the jury that he had manipulated the financial numbers to show a profit on the T20G policies, which actually had not come close to surpassing a 5 percent profit, the threshold over which dividends were payable, she said.

“The Tom Bakoses of the world can probably find any mutual life insurance policy anywhere in the world and pick it apart … and can find somewhere in there some numbers to manipulate,” she said.

For additional coverage of this trial, visit **Courtroom View Network.**

Chavez and the class are represented by Timothy J. Morris and Mary T. Rahmes of Gianelli & Morris.

MassMutual is represented by Jennifer L. Keller and Jesse A. Gessin of Keller Anderle LLP and Joel S. Feldman, Sean A. Commons and Melissa O. Evidente of Sidley Austin LLP.

The case is Christina Chavez v. Massachusetts Mutual Life Insurance Co., case number BC435321, in the Superior Court of the State of California.

--Editing by Alanna Weissman.