



190m lawsuit on - Wednesday 02, October-2002

by Tony Best and Patience Ejimofor

A class action suit that can bring almost 8 000 Barbadians about CAN\$150 million (BDS\$192 million) in damages has cleared a major legal hurdle in Canada and should go to trial in Ontario next year.

A judge in Ontario's Superior Court, Justice Ian Nordheimer, has ruled in favour of the Barbadians, stating their class action suit deserved to be heard.

At the same time, the experienced judge of class action proceedings dismissed an attempt by Manulife to have the Bajans' case thrown out on the grounds it was "frivolous and vexatious and an abuse of the process of the court".



Wismar Greaves, one of four plaintiffs.

He also ordered Manulife to pay the legal costs of the two motions. The court must now decide how much the insurance company should pay in legal fees.

One of four plaintiffs, Wismar Greaves, former Supervisor of Insurance, described the certification as "a big step forward", stressing, however, that it was only a first hurdle crossed.

He said 8 000 policyholders were involved but only 2 000 had registered as members of the class action. He appealed to the remaining 6 000 to do the same.

"This is a major success for the Manulife policyholders in Barbados and we are delighted with the judge's ruling," Harvey Strosberg, a Queen's Counsel of Windsor, Ontario, who filed the suit on behalf of the Barbadians, told the Daily Nation in a telephone interview.

"We expect the case to be heard next year and the trial could last for about six weeks."

Four plaintiffs from Barbados, including Greaves, filed the suit last December. The policyholders complained that when Manulife sold its business interest in Barbados six

years ago, the Canadian company inappropriately failed to protect their rights to benefit in the event of the company's demutualisation.

It did so, the suit contends, without their consent and without paying them fair and equitable compensation.

The court action alleges negligence and breach of fiduciary trust by Manulife when it chose not to protect the ownership interest of the Barbadian policyholders, even though it did protect the interests of policyholders in the United States in a transaction that was also completed in 1996.

In his ruling, Judge Nordheimer certified the class action and said a trial was necessary to deal with the very serious and complex issues raised in the case.

"The action raises an issue as to whether the defendant (Manulife) actively misled a regular," in this case Greaves, he said.

The next step in the process is "documentary production" or "discovery" which will force Manulife to hand over several documents, which the Bajan policholders and their attorney have so far been prevented from seeing.

"We haven't seen all of the documents yet and I will be able to ask the officers of Manulife at an examination for discovery and then we will have a trial which I project will be about a year from now," said Strosberg. "The dollar amount we have claimed in the suit is obviously an estimate. In a demutalisation process, on average people receive about (CAN)\$15 000 each."

With interest and claims for punitive damages, the figure may rise from CAN \$120 million to \$150 million.

The class action is seeking to force Manulife to pay its former policyholders in Barbados the same compensation given to other policyholders when it demutualised.

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