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Holocaust Policy Suits Stay in New York

A bid by six Holocaust survivors and their heirs in California to have their cases against an Italian insurance company returned from New York to their state's speedier courts has been denied.

The denial makes it unlikely that the elderly survivors will live to see a resolution of the snail-paced litigation, said their attorney, William M. Shernoff of Shernoff Bidart & Darras in Los Angeles.

Shernoff's efforts to restore the cases to the Southern California courts where they were filed in 2000 had the support of California Gov. Gray Davis, the state's attorney general and its insurance commissioner.

The suits seek unspecified damages from Assicurazioni Generali, an Italian insurance company, for alleged unfair business practices, breach of contract and unjust enrichment in connection with policies held by the survivors' Eastern European ancestors.

Generali had opposed moving the cases from Judge Michael B. Mukasey of the Southern District of New York, saying multidistrict litigation is the most efficient way to handle them. The insurance company's motion led to the transfer and consolidation of the California cases.

Twelve survivors' insurance cases, four of them class actions, are pending before Mukasey, according to one of Generali's attorneys, Peter Simshauser of New York-based Skadden, Arps, Slate, Meagher & Flom's Los Angeles office. In a brief, he dubbed the plaintiffs' efforts to return the cases to California courts "a thinly-veiled attempt to forum-shop."

The Washington, D.C.-based Judicial Panel on Multidistrict Litigation transferred the California survivors' cases to Mukasey in 2000, months after they were filed, saying he had developed expertise in handling similar litigation.

A seven-judge panel recently denied Shernoff's motion for remand as "not appropriate at this time." Mukasey had not requested the remand and was "thoroughly familiar with the issues in this complex docket," wrote the panel's chairman, William Terrell Hodges, a U.S. district court judge in Florida.