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Judge Throws Out Holocaust Insurance Suits

ABSTRACT:

NEW YORK (Reuters) - A U.S. judge on Thursday threw out 20 separate class action and individual lawsuits against an Italian insurance company for failing to pay benefits to Holocaust victims and surviving family members.

U.S. District Judge Michael Mukasey said he was dismissing the suits against Assicurazioni Generali S.p.A. He cited a U.S. Supreme Court ruling last year striking down a California law that required insurance companies to disclose information about all of their Holocaust-era policies sold in Europe.

In light of that ruling, Mukasey said state laws allowing Holocaust-era lawsuits against insurers are preempted by federal policy favoring the resolution of such claims through the International Commission on Holocaust Era Insurance Claims, or ICHEIC.

"It appears that plaintiffs cannot use the courts to obtain recovery of benefits due under Holocaust-era policies," Mukasey said.

The insurer could not immediately be reached for comment.

William Shernoff, a Claremont, Calif. lawyer representing a group of plaintiffs, said he will appeal the ruling. He said it could affect thousands of claimants.

"It is a sad day when access to the courts is taken away from a class of citizens like Holocaust survivors in favor of an organization that was put together in part by Generali and funded by Generali," Shernoff said referring to the ICHEIC. "To slam the courthouse door on that group is really stunning, particularly when it's the U.S. government."

The cases, which were filed as class actions and by individuals, were transferred to Mukasey in Manhattan federal court for pretrial rulings. They were originally filed in California, Florida, New York and Wisconsin.

In 2002, the judge had refused to dismiss the cases and rejected the insurer's arguments that the United States was not the proper venue for the claims. The insurers said that courts in European countries and the ICHEIC should be used instead.

The judge said at the time that the ICHEIC was not an adequate alternative forum for the resolution of the plaintiffs' claims, suggesting a possible conflict of interest because the commission was financially dependent on the European insurance companies.

ICHEIC was established in 1998 as a means of processing World War II-era insurance claims at no cost. However, it has been criticized by claimants for its low awards, slowness in making payments, poor oversight of insurers, and high administrative expenses.