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## **Lawyers Prepare for Holocaust Insurance Trials**

LOS ANGELES - Lawyer William Shernoff has been busy videotaping depositions of his elderly clients, as litigation over Holocaust survivors' World War II-era insurance claims began moving forward in earnest this week.

Shernoff, with co-counsel Lisa Stern, filed eight new cases in Los Angeles Superior Court. The attorney expects the suits to be removed to federal court and consolidated with litigation pending in New York.

"I think it's important that all of these people get their day in court," he said.

The clients, many in their 80s and 90s, are being videotaped to preserve their testimony in case they don't outlive the repeated delays that have marked the long-running litigation.

The lawsuits stem from charges, mainly from Holocaust survivors and their relatives, that insurance companies failed to honor their World War II policy claims.

In the uncertain times before World War II, insurance salesmen did a thriving business in Jewish communities in Europe, where policies and annuities sometimes were referred to as the poor man's Swiss bank account.

Policies and other documentation often disappeared, however, in the dislocation and violence of the Holocaust. And even when they had the documents, some Holocaust victims said, the insurance companies turned them away.

The flurry of new cases was prompted by a decision last year by Judge Michael B. Mukasey of the U.S. District Court for the Southern District of New York, Shernoff said.

Mukasey ruled in September that Holocaust survivors can bring their unpaid claims in U.S. courts rather than submit them to an international commission set up to hand out settlements.

Mukasey is presiding over the consolidated cases, including two New York class actions, one pending class action from Los Angeles and five individual cases that Shernoff and Stern filed earlier.

In his ruling, Mukasey rejected the contention of two European insurers, Assicurazioni Generali and Zurich Life Insurance Co., that the International Commission on Holocaust Era Insurance Claims is the exclusive venue for contesting insurance policies.

In a strongly worded decision, Mukasey labeled the commission, founded by insurance companies, a "company store" and said that the claims could proceed in the courts.

Generali has filed a motion for reconsideration.

The company's lawyer, Peter Simshauser of Los Angeles' Skadden Arps Slate Meagher & Flom, said that the plaintiffs' suits are misguided.

Allegations that the company has failed to pay thousands of claims is based on the misconception that every inquiry the company received was counted as a claim, Simshauser said.

He said that Generali has turned over \$100 million to the commission, which has paid out \$35 million to individual claimants. Ninety percent of Generali's offers have been accepted, he said, with many payments exceeding \$100,000.

"Generali has the utmost respect for its former insureds and their heirs but believes these lawsuits are misguided because the International Commission on Holocaust Era Insurance Claims ... provides the fairest and most expeditious means of resolving all Holocaust-era insurance claims," said Chris Carnicelli, Generali president and chief executive officer of the U.S. branch.

Shernoff, however, sees the company's latest tactic as another attempt to stall proceedings and shirk responsibility.

"For 50-some years, these people have had roadblocks put before them by Generali," Shernoff said.

"Generali has come up with every conceivable argument to keep these people from getting their day in court," Shernoff said. "It's really tragic."

Shernoff said his clients have rejected the commission's offers because they believe that the commission's formula for calculating payments gives them a fraction of the policies' true value in today's economy.

Their second, and most important objection, Shernoff said, is that Generali has taken a position that it doesn't owe any money and is not legally obligated. What payments it has offered are cast in terms of charity, he said.

Generali bases its disclaimers on the fact that, during and after World War II, communist regimes took control of its branch offices and seized its assets, company officials said.

But Shernoff calls the "nationalization" defense "misleading, false and untrue," contending that it was devised to deny and devalue valid claims.

"Everyone is offended," Shernoff said of his clients' rejections of the commission's offers.

"They're not interested in charity," he said. "They want what is due to them."