

Sheppard Mullin Secures A Win on Behalf of Wawanesa General Insurance Company in COVID-19 Class Action Suit

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The Los Angeles Superior Court granted summary judgement in favor of Sheppard Mullin client Wawanesa General Insurance Company (“Wawanesa”) in a proposed class action involving COVID-19 auto insurance premium refunds.

Virtually all major insurers in California have been sued under California’s Unfair Competition Law (“UCL”) for making “excessive” profits during the Covid pandemic and not providing adequate premium refunds to policyholders, as ordered by the Department of Insurance.

Background on the Case

In February 2022, a premium refund class action was filed against Wawanesa by plaintiff Jill Shively in Los Angeles Superior Court (Complex Litigation Department).

Wawanesa filed a motion for summary judgment, arguing that the Covid refund orders issued by the Department of Insurance, and Shively’s claims which relied on those orders, were invalid and/or barred under California’s “prior approval” statutes. Wawanesa also argued that Shively’s UCL claim should fail as a matter of law because it was contrary to how insurance works. Specifically: insurers cannot levy retroactive surcharges in unprofitable years and insureds are not entitled to retroactive premium refunds in profitable ones.

On August 22, 2023, Judge Lawrence Riff agreed with Wawanesa and granted summary judgment. The Court held that the “prior approval” statutes provided a “safe harbor” for an insurer that charged a rate approved by the Department of Insurance before the pandemic. The Court also found that even if the prior approval statutes did not provide a safe harbor, Wawanesa’s conduct was not unfair as a matter of law. Judge Riff specifically observed that plaintiff’s theory was inconsistent with “how insurance works.”

Partner Charles Danaher represented Wawanesa.

The case is *Shively, et al. v. Wawanesa General Insurance Company*, Case No. 22STCV06011 in the Superior Court of the State of California, County of Los Angeles.

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Practice Areas

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