

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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NEW YORK INSURANCE ASSOCIATION, INC.,
AMERICAN TRANSIT INSURANCE COMPANY,
EVEREADY INSURANCE COMPANY, GREATER NEW
YORK MUTUAL INSURANCE COMPANY, KINGSTONE
INSURANCE COMPANY, MERCHANTS INSURANCE
GROUP and UTICA MUTUAL INSURANCE COMPANY,

**AFFIDAVIT OF
ANNA B. RUBIN**

Index No. 264-10

Plaintiffs,

-against-

STATE OF NEW YORK, ANDREW M. CUOMO, Governor of
the State of New York, BENJAMIN M. LAWSKY,
Superintendent of the New York State
Department of Financial Services, and ROBERT
L. MEGNA, as Director of Budget,

Defendants.

THE NEW YORK HEALTH PLAN ASSOCIATION, INC.;
AETNA HEALTH INC.; AETNA HEALTH INSURANCE COMPANY
OF NEW YORK; CDPHP UNIVERSAL BENEFITS, INC.;
CAPITAL DISTRICT PHYSICIANS' HEALTH PLAN, INC.;
HEALTH NET OF NEW YORK, INC.; HEALTH NET
INSURANCE OF NEW YORK, INC.; HEALTHNOW NEW YORK
INC.; INDEPENDENT HEALTH ASSOCIATION, INC.;
INDEPENDENT HEALTH BENEFITS CORPORATION; MVP
HEALTH PLAN, INC.; MVP HEALTH INSURANCE COMPANY;
MVP HEALTH SERVICES CORP.; PREFERRED ASSURANCE
COMPANY; OXFORD HEALTH INSURANCE, INC.; OXFORD
HEALTH PLANS (NY), INC.; UNITEDHEALTHCARE
INSURANCE COMPANY OF NEW YORK; and UNITEDHEALTHCARE
OF NEW YORK, INC.,

Intervenor-Plaintiffs,

-against-

STATE OF NEW YORK, ANDREW M. CUOMO, in his
official capacity as Governor of the State of
New York, BENJAMIN M. LAWSKY, in his official
capacity as Superintendent of the New York
State Department of Financial Services, and
ROBERT L. MEGNA, in his official capacity as
Budget Director of the State of New York,

Defendants.

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STATE OF NEW YORK)

COUNTY OF NEW YORK)

ANNA B. RUBIN, being duly sworn, deposes and says:

1. I have been employed by the New York State Holocaust Claims Processing Office ("HCPO") since 2001 and have been the Director of the HCPO since 2007. As Director, I oversee all program activities of the HCPO.

2. On October 1, 1996, Governor Pataki issued Executive Order No. 50 (9 NYCRR §5.50), in which the Governor noted, *inter alia*, that: substantial questions remain about the fulfillment of payment obligations on the part of insurance companies to victims of the Holocaust and their heirs under policies in effect prior to and during World War II; certain insurance companies licensed and regulated by New York State are among those against which such claims have been made; New York State is home to thousands of Holocaust survivors; and New York State has an interest in ensuring that insurance companies which it regulates do not withhold property to which they are not entitled. In Executive Order No. 50, Governor Pataki created the New York State Governmental Commission on the Recovery of Holocaust Victims' Assets to, *inter alia*, investigate the fulfillment of contractual obligations to victims of the

Holocaust or their heirs by insurance companies licensed and regulated by the State of New York.

3. On June 25, 1997, Governor Pataki created the Holocaust Claims Processing Office of the New York State Banking Department.

4. On July 8, 1998, the Legislature enacted the Holocaust Victims Insurance Act (L. 1998 Ch. 259), which amended the Insurance Law to add §§2701 through 2711. In so doing, the Legislature noted that it was:

deeply concerned about allegations that certain insurers doing business in New York, either directly or through affiliates, have failed to honor their commitments under insurance policies issued during the World War II era. Although such policies were issued outside New York, this state has a clear and substantial interest in ensuring that justice is effected for New York citizens. Outside of Israel, New York is home to the largest number of Holocaust survivors and their heirs in the world.

It has been alleged that the failure to pay legitimate claims may have diverted significant sums of money from the New York economy. Allegations regarding failure to pay legitimate insurance claims threaten the integrity of New York's insurance market and New York's economy.

5. It is the mission of the HCPO to recover monies due under insurance policies which were never paid and assets deposited in banks and works of art which were lost or looted, as a result of Nazi persecution.

6. Although it was, at that time, part of the Banking Department, since it performs functions related to both banking and insurance, during fiscal years 2008-09 through 2010-11, the HCPO was funded through the budgets of both the Banking and Insurance Departments. During that period, the Insurance Department's share of the HCPO's budget was provided by way of a sub-allocation from the Insurance Department's budget.

7. On March 31, 2011, the Legislature enacted Financial Services Law §102, which, effective October 3, 2011, combined the Banking Department and the Insurance Department into the Department of Financial Services. L. 2011 Ch. 62 Pt. A §§1, 114(a). Accordingly, during fiscal year 2011-12, since it was part of the Department of Financial Services, HCPO's expenditures were financed through that agency's budget.¹

8. The HCPO furthers the Insurance Department's (now the Insurance Division of the Department of Financial Services) mission of ensuring the fair treatment of insurance policyholders and claimants, by assisting the beneficiaries of

¹The Department of Financial Services' budget is financed through assessments levied against the insurance and the banking industries. The assessments levied against the insurance industry finance the Insurance Division and those levied against the banking industry finance the Banking Division. During fiscal year 2011-12, HCPO's expenditures were allocated to the insurance and the banking industries in the same proportions as when the Insurance Department and the Banking Department were two separate agencies and the insurance industry's share of the HCPO's budget was provided to the HCPO through a sub-allocation from the Insurance Department.

Holocaust era insurance policies in recovering monies due under the policy which have not been paid by the insurer.

9. In fact, the largest percentage of individuals who have claims with the HCPO are from the State of New York.


ANNA B. RUBIN

Sworn to before me this
21st day of August, 2013


NOTARY PUBLIC

CHRISTINE M. TOMCZAK
Notary Public, State of New York
No. 02TO6071549 Suffolk
Qualified in ~~King~~ County
Commission Expires March 18, 20 14