

California Court Rules State Must Screen All New Disability Insurance Policies For Deceptive Or Illegal Provisions

The Court of Appeals finds that the Legislature intended for the Department of Insurance to protect consumers from deceptive or illegal disability policies.

SAN FRANCISCO, CALIFORNIA, UNITED STATES, October 9, 2014 /EINPresswire.com/ -- On

Wednesday, October 1, 2014, in a case of first impression in California and possibly nationwide, the California Court of Appeals ruled that the California Department of Insurance, the state agency that oversees insurance companies, must protect consumers from deceptive or illegal disability policies by screening all new policies before they may be sold in the state.

“As a result of this decision, fewer disability policies with deceptive or illegal provisions will be sold to California consumers.”

Bennett M. Cohen

In late 2011, Cassaundra Ellena, a former redevelopment manager with the County of Sonoma who suffers from lupus,

sued Standard Insurance Company, the County's group disability insurer, alleging that the insurer had denied her disability benefits in bad faith. Ellena alleged that Standard Insurance Company's denial was in bad faith, in part, because the definition of disability in the policy violated California law. Ellena also sued the California Department of Insurance alleging that it had failed to fulfill its duty to review the disability policy for illegality prior to sale and asked the court to compel the Department of Insurance to review it. A judge dismissed Ellena's claim against the Department of Insurance, ruling that it had no duty to review new disability policies.

On appeal, the California appellate court reversed the lower court's ruling -- rejecting the Department of Insurance's position that it had no duty to review new policies to determine compliance with state law. In so ruling, the appellate court characterized the oversight function of the Department of Insurance as a matter of "great public interest" and noted that the Department of Insurance had the express statutory mission to review new policies to protect consumers. While the appeal was pending, Ellena obtained a verdict against Standard Insurance Company of \$873,622 for bad faith denial of her claim.

"As a result of this decision, fewer disability policies with deceptive or illegal provisions will be sold to California consumers," said Bennett M. Cohen, the attorney for Ellena.

The published decision, Ellena v. Department of Insurance, California Court of Appeals, San Francisco, California, Case No: A137268 (arising out of Ellena v. Standard Insurance Company) can be downloaded at: <http://www.courts.ca.gov/opinions/documents/A137268.PDF>

Bennett M. Cohen has been involved in handling bad faith disability insurance cases for more than 20 years.

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