

Court Certifies Class of Plaintiffs in Class-Action Litigation Against Aetna

California insurance law firm Gianelli & Morris wins motion for class certification in case against Aetna for systemic denial of lumbar disc replacement surgery

LOS ANGELES, CALIFORNIA, UNITED STATES, June 16, 2021 /EINPresswire.com/ -- On June 11,



This is our third case in which we obtained class certification for denial of lumbar artificial disc replacement surgery. Aetna is the only remaining major health plan that does not cover the surgery."

Robert S. Gianelli

2021, United States District Judge Cormac J. Carney of the United States District Court, Central District of California granted Plaintiffs' motion for class certification in the case of BRIAN HENDRICKS; ANDREW SAGALONGOS v. AETNA LIFE INSURANCE COMPANY (CV 19-06840-CJC-MRW). Specifically, the court's order certified the following class, class representatives, and class counsel:

"All persons covered under Aetna Plans, governed by ERISA, self-funded or fully insured, whose requests for lumbar artificial disc replacement surgery were denied at any time within the applicable statute of limitations, or

whose requests for that surgery will be denied in the future, on the ground that lumbar artificial disc replacement surgery is experimental or investigational, and whose denials will be subject to abuse of discretion review by the district court.

Plaintiffs Brian Hendricks and Andrew Sagalongos are appointed as Class Representatives and their counsel, [Gianelli & Morris](#), are appointed as Class Counsel."

This class-action lawsuit was filed on August 7, 2019, by the California insurance law firm Gianelli & Morris on behalf of "[a]ll persons covered under Aetna Plans, governed by ERISA . . . whose requests for lumbar [ADR] were denied . . . on the ground that lumbar [ADR] is experimental or investigational."

Plaintiffs' complaint alleges that Aetna has a policy of systematically denying requests for lumbar artificial disc replacement surgery (L-ADR) to treat degenerative disc disease in the lumbar spine. According to the Plaintiffs' allegations and supporting court documents, Aetna routinely denies L-ADR as "experimental or investigational" and claims the procedure has not been proven effective in clinical studies to treat lumbar disc disease.

Plaintiffs, on the other hand, allege that L-ADR is FDA-approved, endorsed by the North American Spine Society, and performed at leading medical centers across the country. Plaintiffs' complaint also documents that L-ADR is covered by several major health insurers, including Anthem, Cigna, Humana, and United HealthCare.

In granting Plaintiffs' motion for class certification, the court held that Plaintiffs met all the requirements for class certification required under Rule 23 of the Federal Rules of Civil Procedure. According to the court:

"Under Rule 23(a), a class may be certified if "(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)."

This court found all four requirements (numerosity, commonality, typicality, and adequacy) were met in the Plaintiffs' complaint. To satisfy the Typicality requirement, the court limited the class to those whose claims would be subject to "abuse of discretion review" by the court as opposed to any claims that would be subject to "de novo review."

Plaintiffs in their motion presented evidence that Aetna denied coverage for L-ADR on "experimental or investigational" grounds to 239 of its insureds whose denials would be subject to abuse-of-discretion review by the court, which the court found "easily satisfies the numerosity requirement" and meets the other criteria as well.

To be certified, a class must also meet the standards of one of the subsections of Rule 23(b). In this case, Plaintiffs sought certification under Rules 23(b)(1)(A), 23(b)(1)(B), and 23(b)(2). The court found that Plaintiffs satisfied the requirements of Rule 23(b)(1)(A) and therefore did not need to consider the other grounds. Rule 23(b)(1)(A) allows certification "if prosecuting separate actions by . . . individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class."

Lead Plaintiffs' attorney Robert S. Gianelli expressed pleasure and optimism upon receiving news of the court order granting class certification. "This is the third case in which our firm has



Robert S. Gianelli, Los Angeles
Insurance Attorney

obtained class certification for a health plan's denial of lumbar artificial disc replacement surgery," Mr. Gianelli said. "In the prior two cases, after class certification and shortly before trial, the health plans changed their positions and agreed to cover the surgery. This health plan, Aetna, is the only major health plan that does not cover the surgery."

The case is currently scheduled for trial on December 13, 2021.

About Gianelli & Morris

Gianelli & Morris is a California insurance law firm that concentrates its practice on cases against insurance companies for the wrongful denials of claims. The firm has succeeded in getting numerous major insurers to change their practices when they engage in a pattern or practice of categorically denying certain medical procedures as "experimental and investigational" despite evidence to the contrary.

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