



Manulife's Motion to Dismiss Granted in Fraud Action

February 28, 2007

Kelley Drye achieved a dismissal of all claims against client The Manufacturers Life Insurance Company (U.S.A.) ("Manulife") (now known as John Hancock Life Insurance Company (U.S.A.)), in a case originally brought by two individuals asserting that Manulife made misrepresentations about the premiums required to keep two high value life insurance policies in force.

The Kelley Drye team secured dismissal of the entire case on a motion to dismiss. Kelley Drye successfully argued that the all of the claims were barred by a prior class action settlement and the plaintiffs could not avoid dismissal by claiming that they did not receive notice of that settlement. The Court agreed.

Several months later, however, the Court vacated its decision as to one of the plaintiffs because she died before the earlier decision was issued. Thus, Kelley Drye moved again to dismiss the claims which were then being asserted by the decedent's daughter, who argued that her claims were not barred by settlement of the federal class action lawsuit because the claims in the New York action did not come within the scope of the class action settlement.

The Court agreed with Kelley Drye, granting the motion to dismiss in its entirety, again holding that the plaintiff was a member of the federal settlement class and that the claims asserted in the present lawsuit were extinguished by the class action settlement. The Court also held that all of the claims were time barred. The matter is currently pending appeal.