

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

KATHY AND MICHAEL LANDRY, ET AL, CIVIL ACTION NO. 98-CA-554
Plaintiffs,

VERSUS

JUDGE: RALPH E. TYSON

LOUISIANA HEALTH SERVICE AND
INDEMNITY CO., INC. d/b/a BLUE CROSS MAGISTRATE: 1
AND BLUE SHIELD OF LOUISIANA, ET AL,
Defendants.

MEMORANDUM IN SUPPORT OF MOTION FOR
CLASS CERTIFICATION

MAY IT PLEASE THE COURT:

Pursuant to Federal Rules of Civil Procedure Rule 23 and/or Local Rule 23.1,
plaintiffs have filed the instant Motion for Class Certification.

Procedural Background

On May 18, 1998, plaintiffs herein filed the instant case with the 19th
Judicial District Court for the Parish of East Baton Rouge, State of Louisiana.
Thereafter, on June 18, 1998, the defendants removed this matter to the United
States District Court for the Middle District of Louisiana. Currently, plaintiffs'
objection to the removal and/or jurisdiction of this Court is set for hearing on
October 2, 1998.

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Plaintiffs believe that this matter should be certified as a class for the following reasons:

1. the class of plaintiffs is so numerous that joinder of all members is impractical;
2. there exists questions of law and fact common to the class;
3. the claims of the representative parties are typical of the claims of the class;
4. the representative parties will fairly and adequately protect the interests of the class; and
5. a class action is the most economical and equitable mechanism for avoiding inconsistent or varying adjudications with respect to individual class members which would establish incompatible standards of conduct for the defendants herein and prejudice the rights of the members of the class.

Substance of Plaintiffs' Claim

The underlying basis of plaintiffs' claim emanates from the various conduct of the tobacco defendants in conjunction with the activities of Louisiana Blue Cross Blue Shield resulting in plaintiffs having suffered artificially inflated health insurance premiums charged by Louisiana Blue Cross Blue Shield. The certification sought by plaintiffs include any and all persons who were issued health insurance from Louisiana Blue Cross Blue Shield since at least 1950. Consequently, it is expected that the class of

plaintiffs herein will reasonably exceed 500,000 people.

In essence, plaintiffs claim that the cost of health care has been increased by the deceptive and/or fraudulent practices of the tobacco defendants and this cost has been uniformly passed through to the individual policy holders of Louisiana Blue Cross Blue Shield through increased policy premiums.

Elements Required for Class Certification

1. Numerosity

It is expected that the class members in this matter will exceed 500,000 people. Consequently, it is impractical if not impossible to join all members of a class of this size for the presentation of evidence and testimony in this claim.

2. Common Questions of Law and Fact

Each of the potential class members in this matter are similarly if not identically situated. It is the claim of each class member that they have had to pay artificially inflated health care premiums. Questions of law and fact will be identical with regard to each class member as it pertains to the defendants herein. There exists common issues of fact relating to the activities of the tobacco companies, as well as the mechanism and/or pricing

methodolgy used by Louisiana Blue Cross Blue Shield to pass these increased health care costs along to the individual policy holders.

3. Common Claims of Representative Parties

The representative parties herein hold the same or similar claim of all class members. Every individual issued health insurance by Louisiana Blue Cross Blue Shield from 1950 to the present date shares the same claim for damages and/or reimbursement of artificially inflated health care premiums.

4. Protection of the Interest of The Class

Because of the identical situation of the class members herein, the representative parties will adequately protect the interest of the class. It is further shown that the undersigned attorneys are familiar with handling large class actions and will adequately protect the interest of the class.

5. Consistency

Your movers show that a class action is the proper procedural vehicle to protect the interest of the class members as well as the defendants herein. Without class certification, it is possible that in excess of 500,000 individual suits for the return of excess policies paid to Louisiana Blue Cross Blue Shield could be filed with various courts around the State. Individual

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results of these litigated matters would be used to create inconsistent or varying results and would establish incompatible standards of conduct for the defendants herein as well as the adversely affect the rights of the plaintiffs.

For all of the reasons stated above, it is respectfully submitted that this matter be certified as a class in order to protect both the interests of the plaintiffs and defendants herein.

Respectfully submitted,

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CERTIFICATE

I hereby certify that the above and foregoing has been served upon the below listed individuals by placing a copy of same in the United States Mail, postage prepaid and properly addressed on this 12 day of August, 1998.

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