

2003 WL 22003358
Only the Westlaw citation is currently available.
United States District Court,
N.D. Illinois.

PALMER
v.
COMBINED INSURANCE COMPANY OF AMERICA

No. 02 C 1764. | Aug. 25, 2003.

Attorneys and Law Firms

Athena Marie Papachronis, Patricia Clarke Benassi, Benassi & Benassi, P.C., Peoria, IL, Thomas R. Meites, Joan Harlow Burger, Paul William Mollica, Johanna Josie Raimond, Meites, Mulder, Burger & Mollica, Chicago, IL, for Plaintiff.

John P. Lynch, Kevin Mark Murphy, Mark Steven Mester, Patrick E. Gibbs, Matthew Rawlinson, Bernard John Casey, Latham & Watkins LLP, Chicago, IL, for Defendant.

Opinion

ZAGEL, J.

*1 Before me is plaintiff's motion for class certification, which I will grant with respect to both injunctive relief and punitive damages. A full opinion detailing my decision and my reasoning will be issued within days, but I will summarize my reasons for granting the motion here. I concur with Judge Alesia's opinion in *Radmanovich v. Combined Insurance Co. of America*, N.D. Ill. Case No. 01-9502, in that even if a pattern or practice can be proven, determination of compensatory relief would require individual determinations that prevent satisfaction of the predominance and superiority requirements under Fed.R.Civ.P. 23(b)(3). However, I find that the nature of plaintiff's allegations with respect to injunctive and punitive relief do not have the same fault. Individualized assessments are not necessary when it comes to injunctive relief or to punitive damages, which by nature are intended to punish the wrongdoer, as opposed to compensating an injured victim. Injunctive relief and punitive sanctions do not *necessarily* require inquiry into each class member's personal harm, and I find that it is not likely to be necessary to be in this case. It is possible for an employer, especially one of this size, to commit systemic discrimination against a class of protected individuals. However varied such individual harms may be, if they are all caused by the same pattern or practice, the wrongdoer should not be able to avoid class liability simply because the class cannot be certified for compensatory damages. I concede that cases suitable for class action on punitive damages would be quite rare but this case, as pled (but not proved), is rare. An award of punitive damages is not conditioned upon an underlying award of compensatory damages under 42 U.S.C. § 1981a. Because the class allegations are premised upon the actions of defendant and the relief sought is intended to induce systemic change, not to make the class members whole, I am granting plaintiff's motion for class certification.

Consequently, I am granting the motion to stay notice in the *Radmanovich* case because one notice with respect to both cases is better than two. I am also tolling the statute of limitations in the *Radmanovich* case until issuance of the notice in this case.