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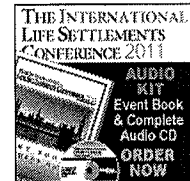
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Lifemark Answers Insurable-Interest Question in Kramer Case

Posted July 01, 2010 6:45PM PST

In a court case that could have a broad impact on the life settlement market, European investor **Lifemark** argued that New York law allows for an insured to buy a policy on his or her own life and immediately transfer it to someone without insurable interest even if the insured didn't intend to provide insurance protection when the policy was bought.

The Luxembourg-based fund manager made the argument in the opening brief it filed in the Arthur Kramer insurable-interest case before the New York Court of Appeal. A federal appellate court ruled in April that the issue can be addressed by New York's highest state court.

"When an insured, on his own initiative, procures a policy 'upon his own person' there is no requirement that the transferee have an 'insurable interest' and no limitation on the insured's ability to immediately transfer the policy," Lifemark stated in its brief filed Monday.

The fund manager described itself as one of Europe's largest investors in U.S. life settlements.

Lifemark also argued that a "good faith" intent to provide insurance for a beneficiary with an insurable interest is not part of the law. That standard was injected by U.S. District Judge Deborah Batts of the U.S. District Court for the Southern District of New York last year, Lifemark said. She had relied on a decision by another federal district court in the *Life Product Clearing v. Angel* case of 2008.

"We are aligned with Lifemark on this issue," said Steven Sklaver, an attorney with the **Susman Godfrey** law firm in Los Angeles who is representing Jonathan Berck, trustee of the Arthur Kramer trust.

He said the brief "persuasively lays out why the New York Court of Appeals should follow the plain language of the statute and should not import into the state a brand new 'good faith' requirement that appears nowhere in the language in the statute."

Briefs by respondents in the case, including carriers, the trustee and Alice Kramer, the wife of Arthur Kramer, who is the plaintiff, are due Aug. 13. Lifemark can reply by Aug. 31.

Source: Court Brief

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