



Ninth Circuit Affirms Landmark Victory for Burke Team and Lincoln Benefit Life Company

Los Angeles – The Burke, Williams & Sorensen, LLP Insurance Litigation team has prevailed on behalf of client Lincoln Benefit Life Company in the Ninth Circuit Court of Appeals by securing a high impact holding for the long term care insurance (LTC) insurance industry in a case of first impression — *Lincoln Benefit Life Company v. Alexander and Claire Dallal*, 2022 WL 605709 (9th Cir. 2022). The insurer first secured a verdict in August 2018, when a Southern California federal jury awarded nearly a million dollars in fraud and punitive damages *against* married policyholders who engaged in a 12-year scheme to defraud Lincoln Benefit client out of LTC benefits. In November 2020 and March 2021, a Central District of California Court Judge issued equitable rulings in Lincoln Benefit’s favor by finding: (1) Mr. Dallal had not been entitled to LTC benefits since 2004, and (2) the joint LTC policy under which the Dallals had fraudulently procured benefits should be voided as of July 29, 2016. The Ninth Circuit on March 1, 2022, has now affirmed the jury verdict and the equitable findings of the Court.

Burke partner and lead trial attorney **Melissa M. Cowan** opined, “The insurance industry has been waiting a long time for this kind of ruling. The Ninth Circuit’s decision upholding this significant jury verdict and the equitable cancellation of a long-term care insurance contract for a fraudulent claim is the first of its kind. All of these results send a strong message that judges and juries will not tolerate fraud.” The *Dallal* holding has the potential to change the landscape of LTC insurance law and gives the industry another tool to help pursue fraudsters. Trial team co-chair **Keiko J. Kojima** added, “The Ninth Circuit’s decision reinforces the power of equity. A district court has the authority to void an insurance policy based on an insured’s claim fraud, even if the policy does not incorporate a ‘fraud cancellation’ provision.”

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