

Commonwealth v. Mega Life & Health Ins. Co.

Superior Court of Massachusetts, At Suffolk

April 16, 2025, Decided

CIVIL ACTION No. 0684CV04411-BLS1

Reporter

2025 Mass. Super. LEXIS 41 *; 2025 LX 71508

COMMONWEALTH vs. THE MEGA LIFE AND HEALTH INSURANCE COMPANY
& others¹

Prior History: [Commonwealth v. Mega Life & Health Ins. Co., 2022 Mass. Super. LEXIS 12, 2022 WL 10392550 \(Mass. Super. Ct., Apr. 25, 2022\)](#)

LexisNexis® Headnotes

Civil Procedure > Remedies > Injunctions > Permanent Injunctions

[HN1](#) Injunctions, Permanent Injunctions

When a litigant seeks permanent injunctive relief, it must establish that it succeeded on the merits of its claim. In the case of a government litigant, it must also establish that the requested order promotes the public interest, or, alternatively, that the equitable relief will not adversely affect the public. Trial judges have broad discretion to grant or deny injunctive relief.

Civil Procedure > Remedies > Injunctions > Grounds for Injunctions

[HN2](#) Injunctions, Grounds for Injunctions

¹Mid-West National Life Insurance Company of Tennessee; HealthMarkets, Inc.; The Chesapeake Life Insurance Company; HealthMarkets Insurance Agency, Inc., f/k/a Insphere Insurance Solutions, Inc.

A basic precondition applies to actions for injunctive relief - such relief is warranted only when past unlawful conduct has continuing impact into the future, or when there exists a likelihood of future unlawful conduct. Although the Supreme Judicial Court has stated that injunctive relief that promotes the public interest is not to be judged by the standards applicable to private litigation, this precondition equally applies to enforcement actions the Attorney General brings under [Mass. Ann. Laws 93A](#) 4.

Civil Procedure > Remedies > Injunctions > Grounds for Injunctions

[HN3](#)[\[↓\]](#) Injunctions, Grounds for Injunctions

The standard for permanent injunctions in Federal Trade Commission actions is favorable to the government, with defendants bearing a heavy burden of demonstrating that there is no reasonable expectation of future repetitions of the wrongful conduct.

Civil Procedure > Remedies > Injunctions > Preliminary & Temporary Injunctions

Evidence > Burdens of Proof > Allocation

[HN4](#)[\[↓\]](#) Injunctions, Preliminary & Temporary Injunctions

Where the Attorney General has alleged and sufficiently shown a likelihood of statutory violations that affected the public interest in a motion for preliminary injunctive relief, the Attorney General is not also required to demonstrate irreparable harm.

Judges: [*1] H      Kazanjian, Justice of the Superior Court.

Opinion by: H      Kazanjian

Opinion

DECISION AND ORDER ON COMMONWEALTH'S REQUEST FOR PERMANENT INJUNCTION

After the entry of the court's Findings of Fact, Rulings of Law, and Order for Judgment, the Commonwealth, as directed therein, briefed the issue of injunctive relief. In its brief, the Commonwealth seeks permanent injunctive relief, as set forth in an attached proposed permanent injunction. The proposed injunction would prohibit defendants HealthMarkets, Inc.; The Chesapeake Life Insurance Company; and HealthMarkets Insurance Agency, Inc., f/k/a Insphere Insurance Solutions, Inc., as well as their successors and related entities, from selling insurance products in the Commonwealth, and communicating in the Commonwealth outside of the restrictions imposed. Defendants oppose the imposition of injunctive relief beyond the 2009 Consent Judgment. On the basis of the evidence presented, the court agrees with Defendants.

HN1^[↑] When a litigant seeks permanent injunctive relief, it must establish that it succeeded on the merits of its claim. [*K-Mart Corp. v. Oriental Plaza, Inc.*, 875 F.2d 907, 914-15 \(1st Cir. 1989\)](#). In the case of a government litigant, it must also establish "that the requested order promotes the public interest, or, alternatively, **[*2]** that the equitable relief will not adversely affect the public." [*Commonwealth v. Massachusetts CRINC*, 392 Mass. 79, 89, 466 N.E.2d 792 \(1984\)](#). "Trial judges have broad discretion to grant or deny injunctive relief." *Id.* (citing [*Johnson v. Martignetti*, 374 Mass. 784, 794, 375 N.E.2d 290 \(1978\)](#)).

HN2^[↑] A basic precondition also applies to actions for injunctive relief — that such relief is warranted only when past unlawful conduct has continuing impact into the future, or when there exists a likelihood of future unlawful conduct. [*Lopez v. Garriga*, 917 F.2d 63, 67-68 \(1st Cir. 1990\)](#). See [*Lightlab Imaging, Inc. v. Axsun Techs., Inc.*, 469 Mass. 181, 194, 13 N.E.3d 604 \(2014\)](#) (affirming denial of permanent injunctive relief where plaintiff "relied exclusively on the defendants' past conduct, without showing any likelihood that it would reoccur"). Although the Supreme Judicial Court has stated that injunctive relief that promotes the public interest "is not to be judged by the standards applicable to private litigation," [*Commonwealth v. Guilfoyle*, 402 Mass. 130, 135, 521 N.E.2d 984 \(1988\)](#) (citing [*Massachusetts CRINC*, 392 Mass. at 89](#)), this precondition equally applies to enforcement actions the Attorney General brings under [*G.L. c. 93A, § 4*](#). See *id.* ("Whenever the attorney general has reason to believe that any person *is using or is about to use* any method, act, or practice declared by section two to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the commonwealth against such person to restrain by

temporary restraining order or preliminary [*3] or permanent injunction the use of such method, act or practice" [emphasis added]).²

[Massachusetts CRINC](#), upon which the Commonwealth relies, does not hold otherwise. [HN4](#)^[↑] Rather it simply provides that where the Attorney General alleged and had sufficiently shown "a likelihood of statutory violations" that affected the public interest in its motion for preliminary injunctive relief, the Attorney General was not *also* required to demonstrate irreparable harm. [392 Mass. at 89-90](#). The fact of the statutory violations adversely affecting the public interest alone was sufficient. See [id. at 89-90 & n.10](#). Nowhere in [Massachusetts CRINC](#) did the court do away with the basic requirement for equitable injunctive relief that it remedy a reasonable likelihood of unlawful future behavior.

Here, the Commonwealth did not introduce any evidence at trial that would warrant permanent injunctive relief. Evidence of recent or ongoing violations does not exist, as Defendants all have left the Massachusetts insurance market. Because the evidence at trial focused on years'-old violations, mostly during the period 2012-2018, the court is unaware of Defendants' current market position, their business intentions, whether they seek to reenter the Massachusetts market, or the ease with which [*4] they could do so, given the Commonwealth's regulatory scheme. Neither did the Commonwealth seek preliminary injunctive relief at any point during this litigation to halt ongoing or imminent violations. With no recent or current factual context to draw from that would allow the court to reasonably assess the likelihood of future violations, the court has no foundation on which to assess the proposed injunctive provisions. Viewed in terms of the public interest served, on the record as it stands, the relief sought would have no appreciable effect on consumers given Defendants' absence from the market. Contrast [FTC v. Direct Mktg. Concepts, Inc., 648 F. Supp. 2d at 215](#) (permanent injunctive relief warranted based on evidence that some defendants remained active in infomercial business, and others, despite having ceased operations, were in a position to resume committing violations).

Moreover, if Defendants were to attempt to reenter the Massachusetts market, the 2009 Consent Judgment remains in effect, as the court already has determined. Adding another layer of injunctive relief in the absence of facts on which the court

² The permanent injunction standard in Federal Trade Commission ("FTC") enforcement actions is likewise showing that similar future violations are likely to occur, with past violations being "highly suggestive of the likelihood of future violations." [FTC v. Direct Mktg. Concepts, Inc., 648 F. Supp. 2d 202,212 \(D. Mass. 2009\)](#). [HN3](#)^[↑] Thus, the standard is favorable to the government, with defendants in FTC actions bearing a "heavy burden of demonstrating that there is no reasonable expectation of future repetitions of the wrongful conduct ." *Id.* (citation omitted).

can specifically tailor relief would add nothing but unnecessary confusion. Finally, the insurance market in Massachusetts [*5] is heavily regulated, which provides protections to Massachusetts consumers should, at some point in the future, Defendants decide to again seek licensure and sell insurance in the Commonwealth. See generally [Commonwealth v. ELM Med. Labs., Inc., 33 Mass. App. Ct. 71, 83-84, 596 N.E.2d 376 \(1992\)](#) (noting that existence of regulatory scheme protects public interest).

On these facts, the Commonwealth's request for permanent injunctive relief is **DENIED**.

ORDER

For the forgoing reasons, the Commonwealth's request for permanent injunctive relief is **DENIED**.

Dated: April 16, 2025

/s/ Hélène Kazanjian

Justice of the Superior Court

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