

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION AND,
IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, 2003

THE NORTHWESTERN MUTUAL LIFE **
INSURANCE COMPANY, **

Appellant, **

vs.

CASE NO. 3D03-697

LEV B. KLEMPNER and CARLOS **
RAMOS, **

LOWER
TRIBUNAL NO. 01-16107

Appellees. **

Opinion filed October 15, 2003.

An Appeal from the Circuit Court for Dade County, Thomas S.
Wilson, Judge.

Hunton & Williams and Marty L. Steinberg and Thomas R. Julin
and Jeffrey W. Gutchess and Aurore Victor, for appellant.

Alan E. Weinstein; Boies, Schiller & Flexner and Stuart H.
Singer and Carlos M. Sires and Carl E. Goldfarb and Sashi C. Bach
(Ft. Lauderdale), for appellees.

Before COPE and LEVY, JJ., and NESBITT, Senior Judge.

PER CURIAM.

Northwestern Mutual Life Insurance Company ("Northwestern

Mutual") appeals from an Order Granting Class Certification to a group of medical and non-medical policyholders who were excluded from receiving dividends from an annual divisible surplus of their disability policies by reason of having their policies reclassified as part of a distinguished non-contributing 'medical market class'. We reverse.

According to 15 U.S.C. § 1012(a) (2003), "[t]he business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business." Northwestern Mutual is domiciled in the State of Wisconsin and, therefore, is subject to the insurance code of the State of Wisconsin. We note that the Wisconsin Office of the Commissioner of Insurance, which is the insurance regulatory authority in the State of Wisconsin, opined that the actions taken by Northwestern Mutual were proper. Thus, it is not for the courts of the State of Florida to determine whether the alleged exclusion from receipt of dividends by Northwestern Mutual was proper. Accordingly, we reverse the Order Granting Class Certification and remand to the trial court with directions to dismiss the case.

Reversed and remanded with directions.