

# AIDS patient stays a winner; a dealer in death must pay

If only M. Smith didn't insist on anonymity. She could dance up and down Broad Street celebrating a sick woman's triumph over a company that wanted her dead.

But HIV-positive people often keep a low profile, and Smith isn't one to gloat. So I'll do it for her.

I've covered some creepy stories in my day, but none as morbid as the tale of a company that normally makes a killing buying the life insurance policies of the terminally ill, and that tried to renege on a contract with a seller who beat the odds and lived.

Business is brutal, but Life Partners Inc., otherwise known as LPI, is shameful. Smith's court win means LPI must honor a 1994 contract and pay her insurance premiums — health and life — until she dies.

Smith is now 50, and even with AIDS may have 28.79 years ahead of her, based on actuarial estimates.

New Jersey Superior Court Judge M. Allan Vogelston crunched the numbers and formally ordered LPI last week to deposit \$837,357.15 with the court, to ensure she remains insured even if LPI expires before she does.

When I first wrote about Smith in January, the story of a life-and-death deal gone sour found thousands of fans on the Internet.

Learning in 1992 that she had cancer and AIDS, Smith was later given two years to live. She sold her \$150,000 life insurance policy to LPI for \$90,000, plus the payment of her life and health insurance premiums.

Had Smith died on time, LPI would have pocketed a 66 percent profit. By living, she became a liability.

So LPI started threatening to cut her off. Once, a stranger called on behalf of concerned investors wondering about her health.

In court, Vogelston scolded LPI for its callous behavior. Paying those premiums is "a cost of doing business," he said from the bench in February.

"You win some, you lose some," he reminded LPI's attorneys.

Sensing they were losing this one, LPI's lawyers tried to get Vogelston bounced from the case for bias. The judge wouldn't budge.

Doubtful of LPI's ability to do the right thing on its own, Vogelston ordered the company to establish a

trust fund to pay Smith's insurance.

The judge did throw LPI one bone: If the company quickly deposits \$75,000 — enough to pay for two years of coverage — he'll put the rest of the obligation on hold pending the outcome of the company's appeal.

That part worries Jacob Cohn, the Cozen O'Connor "Super Lawyer" who spent more than 200 hours on the pro bono case he's thrilled to have won.

"My concern isn't that we'll lose on appeal," Cohn told me. "It's that this company may not be around for the long run. At the end of the day, she could wind up the largest unsecured creditor in their bankruptcy."

Rarely has a legal claim seemed as pure and just to Ronda Goldfein, Smith's AIDS Law Project attorney.

"She was never looking to make a killing at their expense," Goldfein explained. "She was looking for them to honor their promise to her in the way she honored her promise to them."

Given how LPI made Smith sweat from the stress, "I hope that every single cent of that \$837,357.15 will be used to keep her healthy."

Smith said she was proud to have beaten LPI at its own sick game.

"In the beginning, I thought, 'This isn't fair. I'm not going to let them get away with it,'" Smith told me.

"But I came to realize it's way beyond that. This was about them thinking the average HIV-positive person is somewhat disenfranchised. They thought their opponent wasn't educated enough, wasn't savvy enough, didn't feel well enough to fight back.

"They thought they were going to steamroll over me."

If betting on Smith's death was LPI's first mistake, underestimating a sick woman's vigor was its second. Both decisions will cost the publicly traded company dearly.

For the record, in case any LPI executives are asking, Smith is feeling great. She may have AIDS and a chronic headache caused by this litigation, but she has a wonderful life, and she's living it.



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