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Oxford Health Reaches \$3M Settlement In Claims Row

By Jeannie O'Sullivan

Law360, New York (December 8, 2015, 4:30 PM ET) -- Oxford Health Plans Inc. has agreed to pay nearly \$3 million to settle a class action by 20,000 doctors alleging the insurer failed to pay claims in a timely or proper fashion, ending a 13-year legal battle that reached the U.S. Supreme Court.

Each of the class members will receive between \$170 and \$1,700 from a \$1.38 million fund as part of a settlement deal reached before an arbitrator a day before the case went to trial, according to court records provided Tuesday by class counsel Eric D. Katz of Mazie Slater Katz & Freeman LLC.

In addition, Katz was awarded \$1.25 million in counsel fees, and the class representative, physician John Ivan Sutter, will receive a \$25,000 incentive fee. Katz hailed the deal as "a triumph for David against Goliath."

"Both physicians and ordinary consumers should never forfeit their right and opportunity to challenge big corporate practices when those practices are unjust," Katz said in a statement. "The class action device is the only mechanism that levels the playing field so that the 'little guy' can get his or her fair day in court."

In an Oct. 23 order, Superior Court Judge Michelle Hollar-Gregory reopened the state court case to confirm the September arbitration award, as well as the attorneys' fees and class representative incentive award, court records show.

Sutter, a pediatrician, claimed that Oxford failed to provide him and other New Jersey-based physicians with full and prompt payment, in violation of their agreements and various state laws. His contract with the insurer provided that any disputes arising under it would be decided by an arbitrator, as opposed to the courts, but never explicitly mentioned class proceedings.

The arbitrator overseeing the case concluded that the contract's mention of "any dispute" showed an intention to allow class proceedings even in the wake of the high court's ruling in *Stolt-Nielsen SA v. AnimalFeeds Int'l Corp.* Oxford unsuccessfully challenged the determination in the Third Circuit and the U.S. Supreme Court.

In a unanimous **June 2013 opinion**, the justices upheld a **Third Circuit ruling** that backed the arbitrator's decision, explaining that because both Oxford and Sutter had bargained for the arbitrator's construction of their agreement, an arbitral decision even arguably construing or applying the contract must stand, regardless of a court's view of its merits.

In *Stolt-Nielsen*, which overturned an arbitrator's decision to permit class arbitration, the justices held that a party may not be compelled under the Federal Arbitration Act to submit

to class arbitration unless there is a contractual basis for concluding that the party agreed to do so.

However, the justices found that Oxford's case was different from Stolt-Nielsen because in that case, the parties had stipulated that they had not reached an agreement regarding class arbitration, so the arbitrator did not construe the contract.

Sutter is represented by Eric D. Katz of Mazie Slater Katz & Freeman LLC.

Oxford is represented by Marc De Leeuw of Sullivan & Cromwell LLP, P. Christine Deruelle and Edward Soto of Weil Gotshal & Manges LLP and Adam N. Saravay of McCarter & English LLP.

The case is John Ivan Sutter MD, PA v. Oxford Health Plans Inc., case number L-6644-02, in the Superior Court of New Jersey in Essex County.

--Additional reporting by Abigail Rubinstein. Editing by Catherine Sum.

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