

Federal jury awards local woman's estate \$6.2 million

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All Teri Powell wanted was "to be treated fairly" by the huge insurance company that took her premiums but refused to pay her claims.



Powell

A federal jury's \$6.2 million award on Friday could force the insurance company to ante up, even though it's too late for Powell.

Powell, a former Spanish teacher at St. Martin's Academy and Stevens High School, died of cancer in 2007. A team of attorneys and her personal representative, Sharon McElgunn, continued to pursue Powell's claim against CUNA Mutual Insurance Society.

The jury awarded Powell's estate \$6 million in punitive damages and \$200,000 in compensatory damages. The award is subject to appeal.

Friday's verdict will affect people throughout the nation, according to attorney Michael Abourezk, who tried the case with attorney Alicia Garcia. Powell was initially represented by James Leach, who testified during the trial.

The insurance company has made a practice of denying claims filed by customers who sought coverage under their disability insurance policies when a disability prevented them from working, Abourezk said.

"One of the critical things about the whole case is that all of this has been secret," Abourezk said.

"All of the documents showing what they've been doing have been kept behind closed doors, until this trial took place."

According to its Web site, CUNA Mutual Insurance Society is a leading provider of financial services to cooperatives, credit unions, their members and customers. The company reported assets of \$13.2 billion in 2008.

CUNA attorney Jim Hofert refused to comment on the jury's decision.

In 2001, while she was teaching at Stevens High School, Powell took out a home equity loan to make improvements

on her home. To protect herself, she bought disability insurance from CUNA.

Over the next year, Powell's health deteriorated, and doctors advised her to retire. She suffered from rheumatoid arthritis, osteoarthritis, sacro dysfunction and hypertension. A survivor of the 1972 flood, Powell was also diagnosed with post-traumatic stress.

Powell supplemented her South Dakota disability insurance with a couple of small, home-based businesses, making hats and caring for pets.

Although she struggled financially, Powell continued to pay her home equity loan and maintained the disability insurance coverage.

When she was diagnosed with cancer in 2005, Powell applied for benefits from CUNA reaching back as far as 2002, when she was forced to stop working full time.

CUNA denied Powell's claim, stating that she had not filed a timely claim.

Powell consulted Leach, who caught the discrepancies between CUNA's actual policy and letter of denial.

Confronted by Leach, the company paid Powell \$3,081.61 to compensate her for mortgage payments she made from May 2002 to May 2003, but refused to pay her for the years she could not work, from 2003 to 2005.

Even after her cancer diagnosis, CUNA maintained that Powell was capable of working.

She was not alone in that treatment. CUNA records subpoenaed by Abourezk revealed the company's practices, and U.S. District Judge Karen Schreier allowed Abourezk to introduce 18 examples of people whose claims CUNA denied using similar tactics.

In a deposition recorded only 30 days before she died, Powell testified that although the stress of the lawsuit could damage her health, she would not back down.

"I want to be treated fairly," Powell said, "but I also want to know that other people are not going to be abused like I am being abused. And I want this company to come clean and treat their clients with respect."

Powell, who was never married, left a will dividing her assets between 13 family members and friends.

Estate of Teri Powell vs CUNA Mutual Insurance Society

2001: Teri Powell takes out a home equity loan from Highmark Federal Credit Union and buys credit disability insurance coverage.

2002: Suffering from rheumatoid arthritis, osteoarthritis, sacro dysfunction and hypertension, Powell's doctors advise her to stop working. She takes a medical retirement from her job as a Spanish teacher at Stevens High School in May, but continues to pay the insurance premium as part of her home equity loan payment.

2005: Powell is diagnosed with cancer. She applies to CUNA Mutual Insurance Society for disability insurance benefits.

2006: In February, CUNA denies Powell's claim, noting that Powell had not contacted CUNA when she first became disabled in 2002. In March, Powell contacts attorney James Leach. Leach notifies CUNA that under South Dakota law, the timing of Powell's claim is not grounds for denying it. CUNA pays Powell \$3,080.61 to reimburse her for mortgage payments made from May 2002 to May 2003, but refuses to reimburse her for payments made from May 2003 to 2006. In August, Leach and Michael Abourezk file a federal lawsuit against CUNA on Powell's behalf.

2007: On Jan. 7, Powell, 58, dies. On Feb. 28, Powell's personal representative, Sharon McElgunn, replaces Powell as the plaintiff.

2009: On June 12, a federal jury awards Powell's estate \$6 million in punitive damages and a compensatory judgment of \$200,000.