

# Court upholds Horace Mann ERP transfers

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BOSTON — Suffolk Superior Court Judge Allan van Gestel last week ruled that Horace Mann Educators Corp. did not violate any law or regulation in 2001 when, as part of its plan to exit the state, it transferred its preferred Exclusive Representative Producers and their auto insurance accounts to Commerce Insurance of Webster and left its other ERPs and their poorer risks for other insurers to assume.

The decision was a defeat for Liberty Mutual Insurance Co. of Boston and Premier Insurance of Worcester, two of the companies that ended up with the poorer risks under procedures of Commonwealth Auto Reinsurers (CAR), the state's high-risk auto insurer that handles business through ERPs.

The insurers filed their Superior Court suit against Linda Ruthardt, who in her capacity as insurance commissioner last year had rejected an appeal filed by the two plaintiffs and Arbella Insurance seeking to both stay the reassignments and hold a hearing on the fairness of how they were handled.

The controversy began when Horace Mann negotiated a deal to leave the Massachusetts auto insurance market but keep its license to write auto insurance. In lieu of writing coverage itself, Horace Mann formed an alliance with Commerce to write auto insurance for Horace Mann policyholders in the state.

Horace Mann agreed to pay \$6.4 million to cover its CAR obligations over three years and CAR reassigned Horace Mann's four ERPs to Liberty Mutual, Arbella, Premier and National Grange – the first four under-subscribed servicing carriers.

Attorney Thomas Kiley, representing Liberty and Premier, had argued that the assignment of Horace Mann ERPs was unfair and contrary to CAR rules, which allow ERP reassignment once a carrier leaves the market. The process would cause both companies to lose money, he said.

What's more, Kiley had maintained, Ruthardt had no jurisdiction to rule in the matter. □