

VARTKES'S LIST

Of the million or more Armenians executed by Ottoman Turks 90 years ago, thousands had insurance from New York Life. A slip-and-fall lawyer uncovered the list of policyholders and, by forcing the company to pay their heirs, gave voice to the victims of genocide.

BY MICHAEL BOBELIAN ILLUSTRATIONS BY BRIAN HUBBLE

VARTKES YEGHIAYAN ENTERED THE LOS ANGELES FEDERAL courthouse more nervous than on any other day of his career. He wore the fraying navy suit that had seen him through many victories in the slip-and-fall cases that he typically handled. Sixty-five, his hair white and body plump, the lawyer Yeghiayan was 14 years into a different kind of case, a class action lawsuit against an insurance company that had failed to honor his clients' policies.

To the surprise and anger of his colleagues, Yeghiayan had turned down a substantial settlement seven months before. For reasons that don't often enter into the calculations of a legal dispute, Yeghiayan wanted more for his clients than the amount the insurer had offered. His ancestors were Armenian, and for most of his life he had heard stories of a day in April 1915 when Ottoman soldiers rounded up Armenian families to begin a slaughter that would last for eight years and claim at least a million lives.

His clients, some 2,300, were heirs of the slaughter's victims who had purchased life insurance policies that had never been redeemed. Yeghiayan wanted the insurer to pay his clients so that they would get the money they were owed, but also as an act of public recognition for a genocide that most Armenians believed had been too little noticed—and that its perpetrators had consistently denied. In Yeghiayan's view, a settlement could serve both purposes only if it were large enough to attract the world's attention. Otherwise, he would seek the recognition that his people deserved by trying the case in court.

That November morning in 2001, Yeghiayan was on his way to a last-minute settlement conference before a hearing on whether his case would be dismissed. He walked into a small room off the lawyers' lounge near United States District Judge Christina Snyder's courtroom. It was filled with lawyers from each side of the case. The judge had given them 30 minutes to see if they could reach agreement, but Yeghiayan didn't need that much time. The entire group had worked out terms that they hoped he would accept, and a lawyer slid a settlement proposal across the table.

"I'm not going to sign," Yeghiayan said.

THE SOUTHWESTERN CAUCASUS IS A REGION OF RUGGED mountains between the Black and Caspian seas, with deep valleys that intersect like the boulevards of a city. Mount Ararat dominates the landscape and marks the center of the ancient Armenian civilization. In the spring, melting snow and ice flow down the slopes to rivers like the Aras. The ground surrounding the mountain is dark with lava and scattered with embedded stones—some beige and hard, others red and brittle, still others glossy and black.

Armenians emerged in the Caucasus during the first millennium B.C. It is not known whether they traveled there from Asia Minor, as the ancient Greek historian Herodotus claimed, or were native to the land. In A.D. 301, King Trdat III made Armenia the first Christian nation. Mythology has it that he converted his empire from paganism in gratitude to a Christian monk, who made the king human again after he went on a killing spree and was changed into a wild boar. About a century later, another monk created the Armenian alphabet, and the combination of a written language and a state religion solidified the Armenian

culture, allowing it to resist assimilation by Arabs, Tatars, and others who invaded Armenia over the following centuries.

By the 1800s, most Armenians lived under Ottoman rule. The few inhabiting the Turkish capital, Constantinople (now Istanbul), were among the empire's wealthiest merchants and intellectual elite, while the rest worked as farmers and artisans in regions to the capital's south and east. The Islamic Ottomans treated the Christian Armenians as second-class citizens, though, and Armenian demands for equality soon shattered what had long been a largely peaceful relationship between the peoples.

In 1894, the growing tension provoked Armenians to protest against their Turkish rulers, and Sultan Abdul Hamid II, the head of the Ottoman Empire, ordered mass killings of Armenians. The massacres started in the Black Sea city of Trebizond, 650 miles east of Istanbul, and quickly spread throughout the empire. The deadliest incidents occurred in Urfa, near the Syrian border to the south, where soldiers burned a cathedral with 3,000 Armenians inside. Between 100,000 and 300,000 Armenians perished in the violence from 1894 to 1896. In 1908, troubled by growing disorder in the sprawling Ottoman Empire, a group of army officers called the Young Turks seized power from Abdul Hamid and promoted pan-Turkism, a nationalist ideology that advocated eliminating minorities like the Armenians. In their first year in power, the Young Turks orchestrated the execution of between 15,000 and 25,000 Armenians.

As this new wave of violence swept the empire, a middle-class merchant named Setrak Cheytanian watched with horror from his home in Kharput, a city in central Turkey and a stop on the Silk Road, an ancient system of caravan trails from China to the Mediterranean Sea. Fearing the worst for himself and wanting to provide for his wife, parents, and two children, the 35-year-old Cheytanian bought a life insurance policy from an agent of New York Life Insurance Company in July 1910. For an annual premium of 155.73 French francs, the policy obligated the company to pay Cheytanian's named beneficiaries 3,000 francs (about \$580 at the time) plus dividends upon his death or, if he outlived the policy's 20-year term at his request.

Life for Cheytanian and other Armenians grew more precarious as World War I approached. Concern for the Christian minority had prompted France and Britain to support Armenian rights and, to some extent, restrain the Ottomans from greater abuses. But in 1914, Turkey entered World War I on Germany's side, cutting off Armenians from their European supporters. At the insistence of her father and her brother-in-law Cheytanian, Yegsa Marootian and her 9-year-old daughter, Alice, left Kharput for New York City to join Cheytanian's brother, who had emigrated there several years before. As they left, Cheytanian gave Yegsa his life insurance policy, figuring that if anything happened to him, it would be easier for her to collect on the policy in New York, where the insurer was headquartered.

VARTKES YEGHIAYAN WAS BORN IN 1936 TO A WEALTHY family in Ethiopia that sheltered him excessively, even from the family's history. His mother's close ties to the nation's imperial family—her godmother was the wife of the Emperor Haile Selassie—allowed him entry to the best schools and, at age 11, he

attended an American boarding school in Cyprus. There he befriended many Turkish students, and he was puzzled when some of his fellow Armenians would call the Turks "murderers." Why they should be called murderers remained a mystery for Yeghiayan through high school and into college at the University of California, Berkeley, where his father insisted that he go because, his father explained, "The future is in America."

Yeghiayan started as a pre-med major at Berkeley and switched to history, a course of study that might have explained the connection between Turks and murder, but Yeghiayan's teachers never mentioned the topic. Other Armenian students told him stories of their families' hardships in Turkey, and he pretended to know what they were talking about, offering the little he could gather from his reading about Turkey at the library. But it was not until 1961, when his father died and he attended the funeral in Ethiopia with his relatives and the aging friends of his father, that Yeghiayan began to understand his family's—and his people's—unspeakable past.

In the early days of World War I, when the Ottoman military included Armenian soldiers, an assault on Russian forces at Turkey's eastern front backfired, costing the Turks about 90,000 men. Humiliated and looking for a scapegoat, the Turkish commander blamed the treachery of Armenian soldiers for the disaster and arranged for their expulsion from the military. At about the same time, Turkey's leading Islamic cleric declared a jihad, or holy struggle, against all Christians except those living in Germany and other Turkish allies. By 1915, the Armenians were isolated, largely unarmed, and the targets of a religious death warrant. Dr. Khachig Boghosian, a prominent psychologist and leader of the Armenian community in Istanbul, described in his memoirs what happened on the night of April 23:

After supper, I went to the house of my neighbor . . . and we passed the time playing backgammon and piano. I left and came home at 1:30 a.m. and went to bed; everything was calm, both inside and outside of the house. I had just lain down and was on the verge of falling asleep, when the outside doorbell rang loudly three times. My sister Esther hurriedly went downstairs, opened the door and, after exchanging a few words, rushed upstairs and knocked on my door, telling me that the police wanted me.

Similar scenes played out across Istanbul as 250 Armenian leaders were arrested and sent to camps in central Turkey. The head of the Armenian Church pleaded with the United States for help. At the request of America's Secretary of State William Jennings Bryan, the U.S. Ambassador to Turkey, Henry Morgenthau, asked Turkish leaders to stop their campaign against the Armenians. His appeals were ignored, and the United States, then neutral in the war it would enter two years later, could only repeat its request. The Turks began to execute Armenian leaders across the empire, hoping to preclude any organized resistance to the massacres that it planned to undertake soon. The Young Turks declared that they would make Turkey for the Turks alone.

Throughout the spring and summer of 1915, Turkish death squads systematically assembled large groups of Armenians in Erzerum, Kharput, and other Armenian enclaves and hung

or shot the adult men. Among the dead in Kharput was the merchant Setrak Cheytanian. The gangs then evicted women and children and forced them to march through the desert to camps in central Turkey and, finally, to the outskirts of the Ottoman Empire in what is now Syria. Carrying almost nothing to eat or drink, the deportees fought over provisions during the marches. All were vulnerable to the kidnappings, rapes, and murders that the Turks and Kurds guarding them committed at random. Countless women were sold as concubines. Children were pried from their mothers' arms and given to Turkish families. Describing the deportations, Leslie Davis, the American consul in Kharput, wrote to his superior in Istanbul, "I do not believe it is possible for one in a hundred to survive, perhaps one in a thousand."

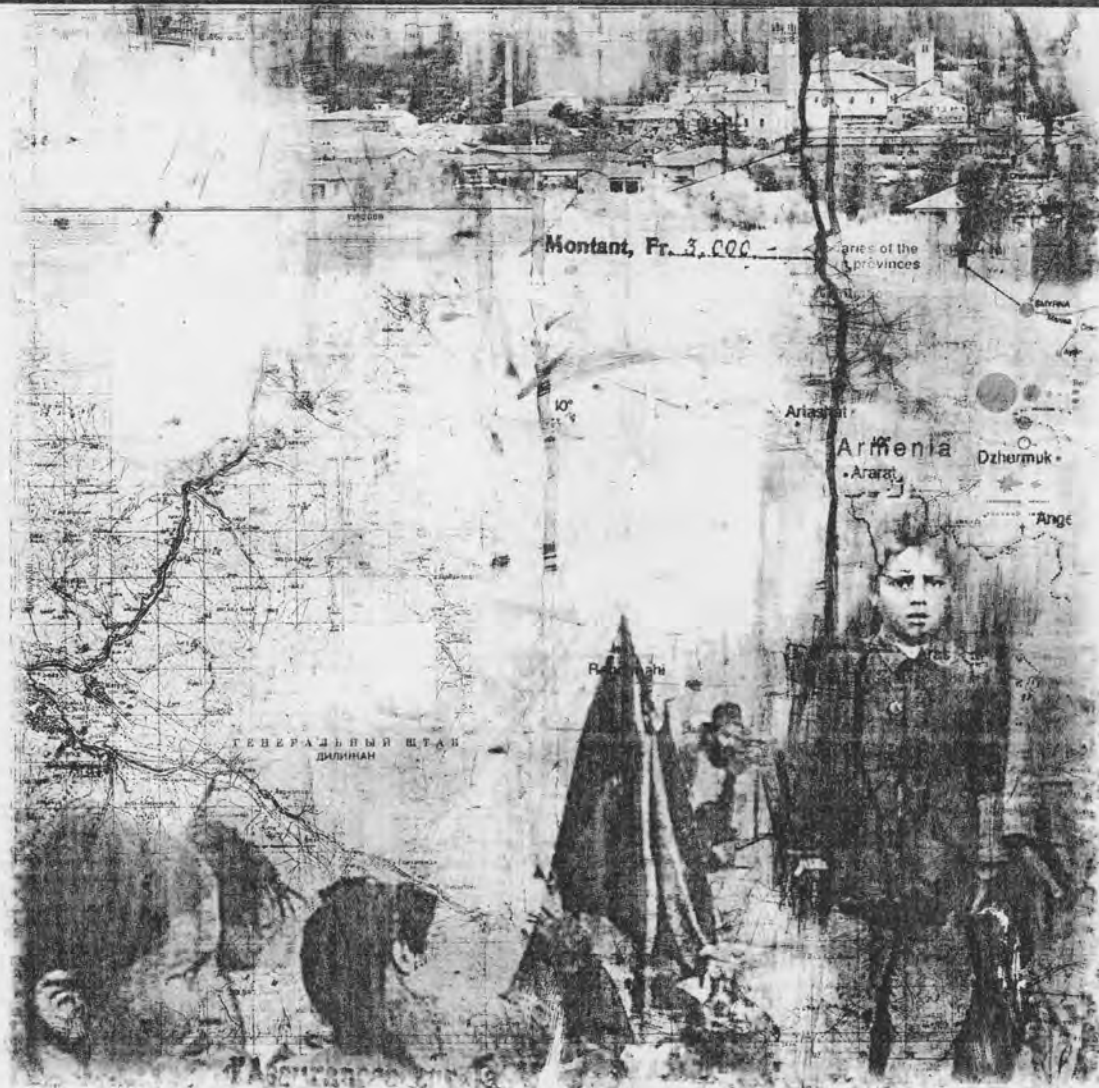
By 1923, the Turks had systematically executed between 1 million and 1.5 million Armenians and evicted 500,000 more from a homeland that they had occupied for 2,500 years. It was one of the century's first instances of mass extermination, and it would become known by Armenians, and later by much of the world, as the Armenian genocide.

Among the genocide's survivors was Yeghiayan's father, Boghos. None of Boghos's friends who later attended his funeral could tell Yeghiayan exactly how or when, in the course of the war and the massacres, Boghos lost his parents and four sisters in Konya, a city in southwestern Turkey. Arab nomads found the nine-year-old Boghos and disguised the green-eyed, flax-haired boy with girl's clothing so that he could survive in their company. In 1919, according to his friends, he walked out of the desert and appeared in Aleppo, a city in northern Syria where tens of thousands of Armenian refugees were gathered after the war. Going through his father's possessions after the funeral, Yeghiayan found in Boghos's wallet a photograph showing Boghos dressed in shepherds' robes. Yeghiayan had never seen the photo before, because Boghos had apparently never shown it to any member of his family. He had shared his memories of Turkey and the massacre of Armenians only with fellow survivors.

THE WAR AND THE DISAPPEARANCE OF SO MANY ARMENIANS hopelessly complicated the efforts of the New York Life Insurance Company to operate in Turkey. By 1921, an attorney at the company's offices in Istanbul had authorized the payment of death benefits on 1,300 of the 3,600 policies held by Armenians, but, with no one trying to collect on the other policies, "that was the closing of the book at that point," William Werfelman Jr., a vice president at New York Life, explained recently. The insurer pulled out of Turkey later in 1921.

By then, Yegsa Marootian had been living in Staten Island, N.Y., for several years, and her family had grown to include three children in addition to her daughter Alice. Yegsa was largely cut off from news of Turkey and her Armenian relatives, but somehow she had gotten word by 1925 that her brother-in-law Cheytanian was dead. She had kept the life insurance policy that he had given her, and, with her family financially strapped, Yegsa was eager to collect the death benefit of 3,000 francs, by that time worth about \$143 (and roughly \$1,600 today).

As Cheytanian had instructed, she contacted the New York headquarters of New York Life about redeeming the policy,



and a company agent told her that she needed a certificate of inheritance—essentially, a death certificate—to prove that Cheytanian had died. The agent recommended that she get one through the Armenian Church, as many other Armenian beneficiaries had done. There is no record of Yegsa's response to the agent or of her life over the following 30 years, but by 1956 she had moved to Los Angeles and obtained the certificate of inheritance. According to a letter dated in June of that year, New York Life instructed Yegsa to come to its offices in Pasadena, Calif., to "discuss the matter" of her brother-in-law's insurance policy.

AFTER GRADUATING FROM BERKELEY IN 1959, YEGHIAYAN worked at a law firm and earned a degree from Lincoln Law School of San Jose, a night school, in 1965. He soon joined California Rural Legal Assistance, a nonprofit group that represented agricultural workers and, after Ronald Reagan became governor in 1967, gained notoriety as a thorn in Reagan's side. But Yeghiayan's attention never strayed far from his Armenian heritage. The genocide stories that he had heard from his college classmates and his father's friends stayed with him, and, beginning in the late 1960s, on every April 24—the anniversary of the genocide—he tried to lead Armenians in demonstrations at the Turkish consulate in Los Angeles. "My view was the Turks... tried to exterminate us and

failed," he explained. "On April 24, we should remind them of that failure." When he could not be in Los Angeles, Yeghiayan joined Armenians wherever he was to commemorate the loss. In 1980, after serving five years as an assistant director of international operations for the Peace Corps in Washington, D.C., Yeghiayan set up a law practice in Glendale, Calif. He helped Armenians immigrate to the United States and handled personal injury cases for the local Armenian community, which is now the largest in America.

But Yeghiayan says it was not until 1987, as he approached his 51st birthday, that he stumbled on the cause that would become his passion. While reading Henry Morgenthau's memoir, he came across a passage that recounted a conversation between the former ambassador to Turkey and his frequent interlocutor, Mehmet Talaat Pasha, the Turkish interior minister and one of the leading Young Turks. Talaat was committed to the elimination of Armenians from Turkey, and while the slaughter was occurring, he mentioned to Morgenthau the substantial business that New York Life and other American insurers had done with Armenians:

"I wish," Talaat now said, "that you would get the American life insurance companies to send us a complete list of their Armenian policy holders. They are practically all dead now and have left no heirs to collect the money. It of course all escheats to the State. The

Government is the beneficiary now. Will you do so?" This was almost too much, and I lost my temper. "You will get no such list from me," I said, and I got up and left him.

Morgenthau was appalled by the Turk's greed in trying to squeeze profit from the Armenians' slaughter, and the story caught Yeghiayan's attention. What happened to these policies? Were they ever paid? If so, to whom?

He investigated, beginning with a letter to the U.S. State Department. He was referred to the National Archives, and after further conversations he received 600 pages of correspondence and other documents on microfiche. As best Yeghiayan could determine, the death benefits on thousands of unredeemed insurance policies remained unpaid.

Yeghiayan saw how he could do more for Armenians than protest in front of the Turkish consulate every April 24. By his calculation, New York Life and other insurance companies owed the heirs of genocide victims millions, maybe tens of millions, of dollars in benefits. So far, the world had largely ignored the Armenian genocide. Insurance benefits weren't reparations, but they would give the victims' heirs something of value and, more important, forcing their payment could be a way of getting people to recognize that something horrible had happened in Turkey more than 70 years before. "I knew we had to file a lawsuit," Yeghiayan said. "The question was, Do we have a client?"

THROUGH THE EARLY 1970S, FEW ARMENTIANS SPOKE PUBLICLY of the massacre, and most of the survivors were interested more in rebuilding their lives than in demanding justice. That seemed fine to much of the world. The Soviet Union, which had invaded and annexed Armenia in 1920, prohibited Armenians from discussing the genocide. The Soviets did not want to stir nationalist sentiments that might provoke unrest, and they were eager to gain Turkey as an ally. In the United States, the phrase "starving Armenians," used in the 1920s by mothers to remind their children why they should eat their vegetables, was quickly forgotten. The American lapse of memory resulted more from neglect than policy, but there was little incentive to remind people of the tragedy: The United States wanted to remain an ally of Turkey, a valuable buffer between the Soviets and the Middle East.

In Turkey itself, the government and most Turks denied that the genocide had occurred, a position established soon after the founding of the Republic of Turkey in 1923 by Mustafa Kemal Ataturk, Turkey's most successful World War I general and the leader of a nationalist movement to rid the nation of minorities and foreign influence. Under Ataturk, official history held that a purely Turkish republic emerged from a war of liberation with imperialist Europe rather than, in large part, from a campaign to cleanse Turkey of its Armenian minority. By describing the nation as "a new birth," this revision of history allowed Turks to forget the past. It permitted them to avoid the shame and other "psychological crises generated by the legacy of the past," explained the historian Taner Akcam, a visiting professor at the University of Minnesota who, in the 1970s, became one of the first Turkish academics to publicly acknowledge the genocide.

After 1923, Turkish schools taught that thousands of Armeni-

ans died during World War I as an unfortunate consequence of disease, famine, and war. Other Armenians were executed or deported because they participated in insurrections, students were told, but total deaths and deportations numbered far less than a million, because not that many Armenians lived in Turkey at the time. The Turkish government reinforced these teachings by prosecuting anyone who publicly questioned them, including Akcam, who was sentenced in 1976 to 10 years in prison, though he escaped to Germany after a year.

Despite a half century of reticence, many Armenians believed it was essential to prove that the defining event of their history was not fiction and, during the 1970s, they began to speak out. In the United States they created national advocacy organizations like the Armenian Assembly, started in 1972, and in 1975 they persuaded the U.S. House of Representatives to designate April 24 as a national day of remembrance for the genocide (the Senate did not pass the resolution). Armenian terrorists struck Turkish targets in Europe, the Middle East, and the United States, killing dozens of Turkish diplomats. In 1981, they took 60 hostages at the Turkish consulate in Paris. These and other efforts to gain recognition for the genocide made Turkey even more determined to block that recognition. In the United States, the Turks exploited their strategic value as a military counterweight to the Soviet Union. During a 1987 House debate, Congressman James M. Leath, a Texas Democrat, explained his opposition to legislation that characterized the events of 1915 to 1923 as genocide. "It does not have anything to do with genocide," he said. "It does not have anything to do with our feelings against what happened to the Armenians. The bottom line is that ... the president of Turkey, the Turkish people, say if you do this, you hurt your security." The legislation failed to pass.

THERE IS NO RECORD OF WHAT HAPPENED AFTER NEW YORK Life invited Yegsa Marootian to its Pasadena offices in 1956. She may not have gone, or she may have failed to complete some other step required to claim death benefits under the life insurance policy. In any event, the company never refused to pay her. When Yegsa died in 1982, the policy was still outstanding.

Alice Asoian, Yegsa's oldest child, inherited the policy but thought little about it until 1989, when she noticed an advertisement in a local newspaper seeking "insurance papers." The ad had been placed by Yeghiayan. It had been running for several weeks, prompting dozens of local Armenians to send him photos of deceased relatives but no insurance policies or other evidence that the relatives were insured. Yeghiayan despaired of finding a client who could get his lawsuit off the ground, but then he received a phone call from Alice. When he visited her home in Irvine, she brought out a shoebox containing the original life insurance policy of Setrak Cheytanian, all the premium payment stubs, and correspondence between Yegsa and New York Life dating back to the 1920s. Yeghiayan, it seemed, had a client.

But the reality was not so simple. In 1994, as Yeghiayan prepared the lawsuit, Alice died, and the policy's beneficiary changed again. This time, it was Alice's brother, Martin Marootian. Fortunately for Yeghiayan, Martin took to the role of plaintiff with enthusiasm.

A retired pharmacist and gentle-spoken grandfather, Marootian, 90, was proud to recount his family's saga. "This is the man in question," he said during a recent interview, pointing to his Uncle Cheytanian wearing a fez and a walrus moustache in a 1905 photograph. Of the 11 Armenians in the photo, only Marootian's mother, Yegsa, and his sister, Alice, had survived the massacre. He stressed that he appreciated the historic opportunity that the lawsuit represented for him and for other Armenians. "I wanted," he said, "to tie the genocide to our case."

YEGHIAYAN PLANNED TO MAKE THE CASE A CLASS ACTION lawsuit on behalf of every beneficiary of every life insurance policy purchased from New York Life by a victim of the genocide. On the basis of historical records, he estimated the class at 2,300 people. But the case presented a monumental challenge for Yeghiayan and his four-lawyer firm in Glendale. His wife, who helped run the firm, was an immigration lawyer, and Yeghiayan had worked mostly on small personal-injury cases. Alone, they could not cover the extraordinary expenses of a lawsuit that would surely take years or handle the thousands of documents that would be traded between the parties. Yeghiayan knew that he needed help, and in 2000, after he filed the case in U.S. District Court in Los Angeles, he hired two Los Angeles-area lawyers with experience in class actions and an interest in seeing the Armenian genocide recognized. One was Brian Kabateck, whose grandparents had survived the genocide. The other was William Shernoff, who had worked on lawsuits seeking reparations for the Holocaust.

The team faced serious legal obstacles almost immediately. The biggest was the expiration of the statute of limitations, the legally prescribed time limit for suing over the policies. "The only way I was going to get around the statute of limitations," acknowledged Yeghiayan, "was to say . . . there is no statute of limitations on genocide." He knew it was a weak argument, and he reached out again for help, this time to California's politically powerful Armenian community. With the assistance of former California Governor George Deukmejian and state Senator Charles Poochigian, both of Armenian ancestry, Yeghiayan persuaded the California Legislature to extend the statute of limitations. With that obstacle to the lawsuit removed, lawyers on both sides reached a tentative settlement for \$10 million in April 2001.

Kabateck, Shernoff, and New York Life issued press releases announcing the settlement. But when Marootian learned of the deal, he rejected it, saying the lawyers were pressuring him to give up. Yeghiayan immediately denied having agreed to settle and accused his colleagues of going behind his back. Later in April, he fired Shernoff and Kabateck.

The falling out threatened to end the lawsuit, but Yeghiayan persuaded Mark Geragos, another lawyer of Armenian descent, to join him, and Geragos talked Yeghiayan into reconciling with Shernoff and Kabateck. No sooner was the team back together, though, than it had to face the motion to dismiss that New York Life had filed before the settlement fell through. Among other points, the insurer argued that the plaintiffs could not sue in Los Angeles, because the policies specified French or English courts as the forums for any legal disputes. Yeghiayan's team responded

that it would be unfair to require elderly clients like Marootian to sue abroad, but the lawyers feared that the case was on shaky ground. Almost every suit tied to compensation for long-ago injustices, from the Holocaust to American slavery to South African apartheid, had failed because of problems like a lack of evidence. Though this suit was based on insurance contracts, only Marootian had a documented policy.

On November 28, 2001, the day of the hearing on the motion to dismiss, Yeghiayan entered Judge Snyder's courtroom minutes after rejecting the settlement offer from New York Life. He placed his litigation bag on the wooden table facing the judge's bench and sat down. The Marootians were in the audience behind him, and around them sat dozens of Armenians whom Yeghiayan had invited.

As they waited for Judge Snyder to take the bench, her clerk appeared from a side door and announced an unexpected development. There would be no hearing, because the judge had reached a decision on the motion to dismiss. The clerk approached the dozen or so lawyers with copies of the judge's written ruling, and, almost simultaneously, they turned to the last page of the decision. "All I wanted to see was that last sentence," Yeghiayan recalled. It said, "NYLIC's motion to dismiss . . . is hereby DENIED."

THE VICTORY FORCED NEW YORK LIFE BACK TO THE NEGOTIATING table, but the case was not over. The company still blamed the rejection of the April 2001 settlement on Yeghiayan, and it "didn't trust him after that," said Shernoff. "They would say, 'If he agrees today, how do we know he's not going to turn on us tomorrow?'"

Mediations before two retired judges and dozens of negotiating sessions failed to bring the parties closer, and in 2003, Geragos and Kabateck asked California Insurance Commissioner John Garamendi to get involved. Garamendi had helped negotiate settlements between insurance companies and plaintiffs seeking reparations for the Holocaust. In the fall, he flew to New York City to meet with Seymour Sternberg, the CEO of New York Life, and after two sessions they broke the deadlock. In January 2004, New York Life agreed to pay \$20 million, twice the amount offered in 2001. Yeghiayan knew that it was enough.

Dozens of documents gathered as evidence in the lawsuit—including the first list of the names, addresses, and occupations of many of the massacre's victims—were put online, providing fresh details of the slaughter. Last October, the French insurance company AXA settled a similar lawsuit (also Yeghiayan's) for \$17 million, prompting Aram I, a spiritual leader of the Armenian Church outside Armenia, to praise the two settlements for "raising awareness" of the Armenian genocide. Hundreds of newspapers and television stations reported the settlements and mentioned the genocide. The *Turkish Daily News*, published in Ankara, was one of the newspapers that ran a story. It referred to the genocide as "the disputed events between the Ottoman Empire and its Armenian citizens at the beginning of the 20th century." ■

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