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TOPIC: Court Rules that Change of Beneficiary Form was Valid Despite Claims of Incapacity and Undue Influence

CITATION: [*Metropolitan Life Insurance Company v. Washington*](#), NO. 8:14-CV-00886-T-24TBM (U.S. Dist. M.D. FLA, Aug. 31, 2015).

SUMMARY: Lorina Drummond was a federal employee and her benefits included a group life insurance policy issued by Metropolitan Life Insurance Company ("MetLife"). In 2005 Lorina suffered a stroke. After the stroke she moved into the personal residence of Gloria Washington. Lorina paid \$550 a month for a room and also received meals. Gloria or a member of her family drove Lorina to her doctor visits. Even though Lorina was physically disabled and walked with the assistance of a walker, no evidence was provided that suggested mental disability.

On May 21, 2011 Lorina executed a change of beneficiary form for her MetLife policy and named Gloria as the sole beneficiary. Lorina died on April 20, 2013. Her children and ex-husband contested the change of beneficiary form – arguing that Lorina was not competent and also asserting that the change was made because of undue influence on the part of Gloria. The court found in favor of Gloria.

RELEVANCE: This is yet another case where the mental capacity of the insured was challenged by disappointed heirs. Because life insurance beneficiary and ownership designations are often made toward the end of the insured's life, it is important to document evidence pointing to the individual's mental capacity to make such changes.

This case also contains a good discussion of undue influence. Although the beneficiary was successful in this instance, the case demonstrates the potential issues caused by the beneficiary being too deeply involved in the change of beneficiary process. Documenting the competency of the policy owner and having witnesses to the beneficiary change process who are independent of the beneficiary are helpful techniques to avoid (or at least defend against) a claim of incompetency and undue influence.

FACTS: Lorina Drummond was a divorced mother of two children. She suffered a stroke in 2005 and moved in with Gloria Washington in St. Petersburg, Florida in 2006. She lived with Gloria until her death on April 20, 2013. Although they did talk periodically by phone, Lorina had not seen her daughter, Aisha Lee, since 2006. She had no contact with her son, Bruce Lee, Jr., while she was living with Gloria.

Lorina was a former federal employee. Her benefits package included a \$62,000 group life insurance policy issued by MetLife. Prior to her death, she had executed four different beneficiary designation forms pertaining to this policy.

- November 1, 2001. Aisha Lee (Daughter) (40%); Bruce Lee, Jr. (Son) (40%); Bruce Lee, Sr. (Ex-Husband)(20%)
- July 22, 2005. Gregory Drummond (Brother); Bruce Lee, Jr.; Aisha Lee; Kathryn Wilkerson (Friend)(Each 25%)
- June 30, 2007. Gloria Washington (Friend) and John Douglas (Friend)(Each 50%)
- May 21, 2011. Gloria Washington (100%)

Kathryn Wilkerson and John Douglas made no claim to the life insurance benefits. Lorina's children, ex-husband, and brother each made a claim to the insurance proceeds. There was also a claim by the funeral home for burial and funeral services.

Because of the competing claims made on the insurance proceeds, MetLife sought direction from the court and placed the death benefits plus interest with the court. On August 28, 2015 the court held a hearing to determine the appropriate beneficiary or beneficiaries of the policy.

In addition to Gloria, five other witnesses testified to Lorina's competency as of the time of the final beneficiary change. Medical records from her last office visit less than three months prior to the beneficiary change were also provided as evidence of her competency.

The opinion contains a very good discussion of the standard that needs to be met to contest a change of life insurance beneficiary designation. (Note: This will likely vary from state to state). The court here stated that "mere weakness of mind is not sufficient to set aside a beneficiary designation" and feebleness of body does not prove nor even create a presumption of incompetence.

The burden of showing incompetence is on the party alleging the incompetence. Incompetence must be shown by a "preponderance of the evidence." Specifically, the person must only have "sufficient intelligence to understand the transaction and act upon his or her own free will." In this situation the court found no evidence of incompetency.

Not finding mental incapacity, the court next looked at the issue of undue influence. The court noted that a presumption of undue influence arises when the beneficiary had a confidential relationship with the decedent at the time of the transaction and actively procured the bequest. Although this case involved a change of life insurance beneficiary, the court looked at Florida law pertaining to will contests and noted the following factors as "warning signs" of active procurement:

- The presence of the beneficiary at the execution of the will;
- The presence of the beneficiary on those instances when decedent expressed a desire to make a will;
- The beneficiary recommending an attorney to create the will;
- Knowledge by the beneficiary of the contents of the will before it is executed;
- The beneficiary instructing the attorney on the preparation of the will;

- Securing the witnesses to the will by the beneficiary; and
- Safekeeping of the will by the beneficiary.

In this instance, the court found that Gloria (1) filled out the beneficiary designation form for Lorina, (2) procured the witnesses (Gloria's husband and daughter), and (3) mailed the beneficiary designation to MetLife. Because of Gloria's active participation in the beneficiary designation change, the court stated that the burden of proof was shifted to Gloria, who had to show by a preponderance of the evidence that Lorina was competent.

Fortunately for Gloria, the court found that the evidence presented was sufficient to meet the preponderance standard. Evidence submitted included the testimony of Gloria and five other witnesses. The evidence also included notations from her medical file from February 24, 2011 stating that she was "feeling fine and doing fairly well." In addition, a social services interview from October 28, 2010 also indicated that Lorina was "happy with her living situation."

In short the court found that there was "no evidence of forgery, no evidence that Decedent did not have the mental capacity to execute the beneficiary designation form..., and no evidence of undue influence."

Mitchum-Wilson Funeral Home was awarded \$6,000 for funeral expenses and burial and the remainder of the insurance proceeds plus interest was awarded to Gloria as the sole named beneficiary under the 2013 beneficiary designation.

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