



# WRNewswire

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**TOPIC: Court Rules that Capacity is Necessary to Change Beneficiary of Life Insurance Policy**

**CITATION:** [\*New York Life Insurance Company v. Frieda Bostwick\*](#), NO. 3:14-CV-05931-RJB (U.S. Dist. W.D. WA, July 22, 2015).

**SUMMARY:** David Bostwick purchased a life insurance contract on his life from New York Life Insurance. Other than the initial premium payment, payments were made by David's parents. David's estranged second wife Nancy visited David on his death bed five days before he died of colon cancer. Nancy obtained a change of beneficiary designation in her favor during that visit which she submitted to New York Life when making claim for the death benefit. Based on declarations and other documentation provided by David's mother Frieda – the court found that David lacked capacity to execute the change of ownership and found that Frieda was the rightful beneficiary of the policy.

**RELEVANCE:** The case reminds us that while mental capacity is a necessary element to execute a valid will, it is also necessary to execute a change of life insurance beneficiary (or ownership). This lesson is important given that life insurance beneficiary and ownership designations are often done at the end of the insured's life. If any question exists regarding capacity, it is important to document evidence pointing to the individual's capacity.

**FACTS:** David Bostwick purchased a life insurance contract on his life in 1977 from New York Life. Other than the initial premium payment, payments were made by the insured's parents. Nancy was David's second wife. Nancy and David had been estranged, but not divorced, since 2006. On June 11, 2014, when David was in the final stages of colon cancer, Nancy visited him in the hospital and was able to get his signature on a change of beneficiary form making Nancy the beneficiary of the policy. David died on June 16, 2014 and Nancy filed a claim for payment of the death benefit. Frieda also filed a claim for payment. Since Nancy had submitted the change of beneficiary form reflecting her as the beneficiary, New York Life requested that Frieda forward any documents supporting her request that payment to Nancy be withheld.

Frieda provided documentation, including declarations by David's primary physician, that David lacked capacity to make a change of beneficiary on June 11, 2014 when he allegedly executed the beneficiary

designation change in favor of Nancy. His physician described his suffering at the moment as “significant cognitive impairment that impaired his ability to reason thoughtfully and ... to resist influence from others.” The physician’s declarations were supported by declarations of others including Frieda, two siblings, and Renee Wilbur, who lived with David and took care of him for the last three years of his life.

The declarations described David “as confused, sleeping for long periods of time, and using indecipherable speech.” Maybe more importantly, Renee stated that David did not want Nancy present at the time that David allegedly signed the change in beneficiary form.

Other than filing a general denial for the motion for summary judgment, Nancy provided nothing to refute the declarations regarding David’s lack of capacity. As a result, the court concluded that there was overwhelming evidence that David lacked the capacity to execute a change in beneficiary form. Therefore, Frieda’s motion for summary judgment was granted.

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