



# WRN Newswire

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The *WRNewswire* is created exclusively for AALU Members by insurance experts led by Steve Leimberg, Lawrence Brody and Linas Sudzius. *WRNewswire* #15.01.16 was written by Linas Sudzius of [Advanced Underwriting Consultants](#).

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**TOPIC: Collateral Assignee's Right to Life Policy's Death Benefit is Superior to the Claim of the Named Beneficiaries**

**CITE:** [Unum Life Insurance Company v. Witt](#), No. 1:14CV00005, 2015 WL 72099 (U.S.D.C. W Dist VA, Jan. 6, 2015).

**SUMMARY:** The insured purchased \$150,000 of insurance coverage on his life. He subsequently executed a collateral assignment in favor of his bank as partial collateral against a \$358,875 loan. The insured named his minor children as beneficiaries of the policy. After the insured died, the bank and the children made claims for the death proceeds. Unum filed this interpleader action in federal district court in Virginia.

The court granted the bank's motion for summary judgment, recognizing that its claim against the death benefit superseded any rights of the named beneficiaries.

**RELEVANCE:** Many business owners and real estate investors regularly incur substantial amounts of debt. They often use life insurance either to pay off the debt in the event of their death or to assure the lender that there is a source of cash to guarantee repayment of the amount outstanding. Quite often, as is the case here, a collateral assignment of life insurance is used to secure a bank loan. In other situations a collateral assignment might be used in connection with the private funding of a business purchase, or in connection with a split dollar plan.

If the collateral assignment is properly prepared and timely filed with the insurance company, the collateral assignee can expect to have priority and therefore be paid *before* any remainder of the death proceeds are released to the named beneficiaries.

**FACTS:** Douglas Witt was the insured under a group life insurance policy through his employer. The group policy was issued and administered by Unum Life Insurance Company of America. Witt, as a benefit of his employment, obtained life insurance coverage of \$150,000 through the group policy.

He left his employment in 2002, but elected to continue his life insurance coverage. In 2010, Witt executed a collateral assignment against the group policy in favor of First

Sentinel Bank as security for a loan to Witt in the amount of \$358,875. The loan was also secured by real estate owned by Witt.

Before he died, he had also designated his two children as the beneficiaries of the policy. At his death, the payoff amount of the loan to the bank was \$359,375.

Witt died on August 20, 2013. Following Witt's death, both an attorney for the bank and one of the beneficiaries Witt had named made claims for the death proceeds.

Unum filed the interpleader action in February, 2014, naming the bank and the named beneficiaries as defendants.

The bank moved for summary judgment in its favor. It asserted that its right to the death proceeds under the collateral assignment was superior to the claims of the named beneficiaries.

The beneficiaries argued that the bank had failed to submit the collateral assignment correctly, and thus had not "perfected" its security interest in the death benefit.

The court analyzed the situation, noting that the group policy explicitly allowed the policy owner to assign his rights to the death benefit to a collateral assignee. The court reasoned that it was up to Unum to decide whether the collateral assignment was satisfactory to the life insurance company. Unum, in its interpleader court filings, had acknowledged the validity of the assignment. Thus, the court decided, the collateral assignment was valid.

The beneficiaries further complained that they had received no notice of the collateral assignment, and therefore it could not be effective with regard to their claims.

The court rejected that argument, saying that neither the bank nor Unum had any responsibility to inform the beneficiaries of the existence of the collateral assignment prior to the insured's death.

**RESULT:** The court granted the bank's motion for summary judgment, recognizing that its claim against the death benefit superseded any rights of the named beneficiaries.

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