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TOPIC: Annuity Proceeds Paid to Contingent Beneficiary When Primary Beneficiary Died Too Soon

CITES: *Transamerica Life Insurance Company v. Estate of Randle,* 2014 WL 2747834 **(U.S.D.C. Dist.OR. 2014);** Oregon Revised Statutes Section 112.572.

SUMMARY: The primary beneficiary of an annuity contract died two days after the annuity owner passed away.

The annuity contract provided that, under these circumstances, the proceeds would be paid to the primary beneficiary's estate. The contingent beneficiaries argued that under the Oregon simultaneous death statute, the proceeds should be payable to them instead.

Transamerica, the annuity company, filed an interpleader action in federal court to determine the proper beneficiary. The court ruled that the contingent beneficiaries were entitled to the annuity proceeds.

BACKGROUND: Gloria Jones bought an annuity contract from Transamerica Life Insurance Company in 1999. She died on March 1, 2010, while a resident of Oregon. Arie Randle, the primary beneficiary of the policy, died two days later.

Wilbert Randle, Jr., one of two living contingent beneficiaries of the policy, filed a claim under the policy. He argued that he was entitled to his share of the proceeds under Oregon Revised Statutes Section 112.572, which specifies that unless a beneficiary survives the decedent by 120 hours the beneficiary will be treated as having pre-deceased the decedent.

Transamerica filed an interpleader action in federal court in Oregon, seeking guidance as to whether the statute applied to Jones's annuity policy.

FACTS: The court looked at the Oregon simultaneous death statute. It reads:

> if the title to property ... depends upon whether a specified person survives the death of another person, the specified person shall be deemed to have died before the other person unless it is established by clear and convincing evidence that the specified person survived the other person by at least 120 hours.

The court determined that the statute did apply, unless some exception to it also applied. Oregon's simultaneous death rule can be overcome if the underlying contract has a simultaneous death rule of a different duration, or if the contract expressly says that no simultaneous death rule applies.

After examining the annuity contract, the court determined the following policy language to be the most relevant:

> Only those beneficiaries living at the time of the annuitant's death will be eligible to receive their share of the death proceeds….
>
> If both primary and contingent beneficiaries have been named, payment will be made to the named primary beneficiaries living at the time the death proceeds become payable….
>
> Payment will be made to the named contingent beneficiary(ies) only if all primary beneficiaries have died before the death proceeds become payable. If any primary beneficiary is alive at the time the death proceeds become payable, but dies before receiving their payment, their share will be paid to their estate.

This policy language was silent as to whether the beneficiary is required, or not required, to survive the death of another by a specified period.

RESULT: The court ruled that in the absence of specific policy language regarding simultaneous death of policy owner and beneficiary, Oregon's simultaneous death statute applied. The court ordered the policy proceeds to be paid to the contingent beneficiaries.

RELEVANCE: It seems that we have seen a number of cases recently where the courts have dealt with uncertainty over the proper beneficiary to a life or annuity contract. In this case, the uncertainty came about because of Oregon's simultaneous death statute.

The laws of each state differ with regard to simultaneous death rules. The rules may vary with regard to:

- situations in which the statute will apply,
- duration of the period under which simultaneous death is presumed, or

- whether the state imposes any simultaneous death rule at all.

Like other beneficiary cases before it, the decision in *Randle* reinforces the idea that clients and their life insurance professionals need to review life beneficiary designations regularly. The proper new beneficiary papers should be filed *immediately* with the insurer when a change is desired.

***WRNewswire* #14.07.07 was written by Linas Sudzius of Advanced Underwriting Consultants.**

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