



WRNewswire

An AALU Washington Report

Friday, 7 November 2014

WRN# 14.11.07

The *WRNewswire* is created exclusively for AALU Members by insurance experts led by Steve Leimberg, Lawrence Brody and Linas Sudzius. The *WRNewswire* provides timely reports and commentary on tax and legal developments important to AALU members, clients and advisors, delivered to your inbox as they happen.

TOPIC: Twice-Flawed Beneficiary Designation Leads to Litigation

CITES: [*Metropolitan Life Insurance Company v. Dice*](#), No. 13–2339–DDC–JPO (U.S.D.C. Dist. KS, Oct 29, 2014); [5 U.S.C. § 8705\(a\)](#).

SUMMARY: Metropolitan Life Insurance Company (MetLife) filed an interpleader action seeking a declaratory judgment determining the proper beneficiaries entitled to the proceeds of a life insurance policy that it issued for Edna Jean Turgeon (Edna) under the Federal Employees Group Life Insurance Act (FEGSIA).

The insured's beneficiary designation had the following two flaws:

- The language as to one or more unborn beneficiaries was unclear.
- The designation language attempted to distribute 150 percent of the available death benefit to the named beneficiaries.

The court decided that the insured intended for only one particular unborn grandchild to share in the death benefit. It deferred its decision with regard to the proper division with regard to the excess allocation of the policy's death benefit.

MetLife also asked the court to decide to whom the death benefit share of a pre-deceased beneficiary should be paid. The court ruled it would be split equally among the surviving beneficiaries.

BACKGROUND: Edna was employed by the United States Postal Service and was insured under the FEGSIA Program underwritten by a policy issued by MetLife. In 1995, the insured executed a designation of beneficiary form for her life insurance policy

issued by MetLife. On the form, the insured listed her beneficiaries, with the shares to be paid to those beneficiaries as follows:

Deneses (sic) Frances Dice	Daughter	5/10
Kelsie Nichole Dice	Granddaughter	1/5
Britni M. Dice	Granddaughter	1/5
Unborne (sic) grandchild Dice	Granddaughter	1/5
Ashlie D. Smithey (Dice)	Granddaughter	1/5
Doris D. Turgeon	Mom	1/5

Denese Dice is Edna's only child. Doris Turgeon was Edna's mother, and Doris predeceased the insured. The other four named individuals are the insured's grandchildren, who are also Denese Dice's natural born children.

On the date the insured completed the designation of beneficiary form, Denese Dice was pregnant. She gave birth to Cheyenne Dice in September, 1995. After September of 1995, Denese Dice gave birth to three additional children.

The insured died on September 26, 2012. In July of 2013, MetLife filed the court action, seeking a declaratory judgment identifying the proper beneficiaries of the insured's life insurance policy and those entitled to the policy proceeds. Denese's three minor after-born children were included in the court action, and were represented by a *guardian ad litem*.

FACTS: The District Court started its analysis with an examination of the FEGLIA rules. The FEGLIA statute, at 5 U.S.C. § 8705(a), requires the payment of life insurance death benefits in strict accordance with the beneficiary designation, and without considering extraneous documents or the insured's expressed intentions.

In this case, the court reasoned, because the insured completed a designation of beneficiary form, the life insurance proceeds would be payable to the beneficiaries designated by the insured on this form.

However, because the parties disputed the proper *interpretation* of the beneficiary language, MetLife asked the court to decide whether, "Unborne (sic) grandchild Dice," referred *only* to Cheyenne Dice, or whether it refers to a class of beneficiaries that includes *all* after-born grandchildren. In analyzing the question, the court determined that the language of the beneficiary designation—which referred to *grandchild* and not *grandchildren*—was critical.

MetLife also asked the court to decide how to allocate the death benefit share of Doris, a named beneficiary who had predeceased the insured. The court once again looked to the beneficiary designation form, which said:

[I]f more than one beneficiary is named, the share of any beneficiary who may predecease [the insured] ... shall be distributed equally among the surviving beneficiaries.

Finally, the court turned to the question of the insured's apparent attempt to allocate 150% of the available death benefit among the beneficiaries. The court declined to find that the ambiguity in the insured's beneficiary form *invalidated* the designation.

However, the court recognized that the ambiguity in the form created a *dispute* among the five surviving beneficiaries named about the appropriate apportionment of the insurance proceeds.

RESULT: The court ruled as follows:

1. Cheyenne Dice, and only Cheyenne, was the beneficiary referred to "Unborne grandchild Dice."
2. The share allocated to Doris, who pre-deceased Edna, was to be re-allocated in equal shares to the other five beneficiaries.

The court declined to decide what the insured really intended when she named beneficiaries for 150% of the death benefit on the beneficiary form. Instead, the court encouraged the five surviving named beneficiaries to attempt to reach an agreement about the amount of death benefit each should receive. If they are unable to reach an agreement, the court planned to order additional input on this issue and make a decision in the future.

RELEVANCE: The *Dice* case continues a long string of court decisions where beneficiaries—real and imagined—hoped to convince a court *they* were entitled to death proceeds from life insurance.

The case reinforces some of the usual points about beneficiary designations:

- Care must be taken with beneficiary language to ensure it conforms to the client's actual intentions.
- Changes in circumstances, including the death of a beneficiary or the birth of a possible new beneficiary, should prompt a review of existing beneficiary designations.

The *Dice* case also reinforces the value of working with a professional life insurance agent. Edna, the insured under the FEGLIA policy, apparently prepared the beneficiary designation form by herself. She seemed to make two mistakes in completing the form.

First, she attempted to designate beneficiaries for 150% of the death proceeds, and she was unclear with regard to the scope of her after-born beneficiary language.

Second, Edna arguably did not properly monitor her beneficiary designations after the initial form was completed. She failed to name new beneficiaries after her mother died,

and she also may have neglected to include after-born grandchildren among the beneficiary group.

Working with an experienced life insurance professional on her beneficiary designation could have helped Edna—and her heirs—to avoid these problems.

Likewise, the case reinforces a lesson for life insurance professionals. Clients and prospective clients have named beneficiaries for their life insurance policies and other financial products, often without any professional help (as happened here). Even in a case like this one where no agent was involved in the product's initial purchase, nor was an agent involved in the initial beneficiary designation, it is a best practice to ask any prospective client or new client for records of EVERY existing beneficiary designation. The professional should review the records with the client and the rest of the client's professional team to minimize the possibility of unpleasant financial surprises at the client's death.

WRNewswire #14.11.07 was written by Linas Sudzius of [Advanced Underwriting Consultants](#).

DISCLAIMER

This information is intended solely for information and education and is not intended for use as legal or tax advice. Reference herein to any specific tax or other planning strategy, process, product or service does not constitute promotion, endorsement or recommendation by AALU. Persons should consult with their own legal or tax advisors for specific legal or tax advice.

The AALU *WRNewswire* and *WRMarketplace* are published by the Association for Advanced Life Underwriting® as part of the Essential Wisdom Series, the trusted source of actionable technical and marketplace knowledge for AALU members—the nation's most advanced life insurance professionals.