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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: Ohio Appeals Court Decides Divorce-Related Beneficiary Case

CITES: [*Motorists Life Insurance Company v. Sherbourne*](#), No. 1-14-17, 2014 Ohio 5205 (Ohio Ct. App., 3rd Dist, Nov. 24, 2014); [Ohio Revised Code 5815.33\(B\)\(1\)](#).

SUMMARY: William Murray bought two insurance policies on his life from Motorists Life, and in 2002 named his wife Patricia the beneficiary of those policies. The Murrays divorced in 2004. After the divorce, William told his agent to keep Patricia the beneficiary under the policies.

William died in 2013. William's children made claim for the life insurance death proceeds, arguing that under Ohio law the beneficiary designation in favor of Patricia was revoked upon the divorce. Patricia also made claim for the policy proceeds, and Motorists initiated an interpleader court action.

The Ohio state appeals court ruled in favor of Patricia.

RELEVANCE: We have written extensively about beneficiary decisions related to divorce. *WRNewswires* 14.08.15 and 14.03.26 also specifically discussed state statutes that automatically revoke the prior beneficiary designation of an ex-spouse following divorce.

In this case, the Ohio courts applied Ohio law. Ohio law provides that an ex-spouse pre-divorce beneficiary designation is automatically revoked as part of the divorce—unless re-instituted as part of the divorce paperwork or by new designation post-divorce. In a decision that may be described as surprising by some, the Ohio appeals court decided that post-divorce conversations with the insured's agent were enough to affirm the ex-spouse as beneficiary of the insured's life policies.

State laws vary widely and courts can sometimes make unpredictable decisions. In this case, litigation could likely have been avoided if the insured had made clear in his divorce paperwork that he intended to keep his ex-wife as beneficiary. Likewise, litigation could probably have been avoided if the agent had encouraged the insured to submit to the insurance company a post-divorce affirmation of his ex-wife as beneficiary.

This case is a reminder about how important it is for professional agents to keep in touch with their clients. When clients get divorced, existing beneficiary designations should be evaluated. In some cases, the agent and client should consider submitting a post-divorce beneficiary change form—even if the beneficiary designations do not in fact change.

BACKGROUND: William and Patricia Murray were married in 1989. William bought two policies insuring his life from Dennis Rockhold, an agent for Motorists Life. On June 15, 2002, William designated Patricia as the sole beneficiary of both policies. There was no contingent or successor beneficiary designated.

In 2004, William and Patricia divorced. The divorce decree did not mention the Motorists policies and William did not change his beneficiary designation of Patricia on the policies.

William subsequently had three separate post-divorce discussions with Rockhold regarding his designation of Patricia as beneficiary on the policies. On each occasion, William indicated that he wanted to retain Patricia as the beneficiary on both policies.

On September 3, 2013, William died. William's son, Charles, was appointed as the acting fiduciary of William's estate and in that capacity made a claim to Motorists asserting that the proceeds of the two life insurance policies were payable to William's estate.

Motorists filed a court complaint in interpleader naming Patricia and Charles as defendants.

FACTS: The trial court relied on Ohio Revised Code Section 5815.33 in reaching its decision.

Unless the designation of beneficiary or the judgment or decree granting the divorce, dissolution of marriage, or annulment specifically provides otherwise ... if a spouse designates the other spouse as a beneficiary ... [and] after [the] designation, the spouse who made the designation ... is divorced from the other spouse ... then the other spouse shall be deemed to have predeceased the spouse who made the designation ... and the designation of the other spouse as a beneficiary is revoked as a result of the divorce, dissolution of marriage, or annulment.

The trial court decided that since there was no mention of the Motorists policies in the divorce decree, the provisions of the statute effectively removed Patricia as beneficiary. It ruled therefore that William's estate was entitled to the proceeds.

Patricia appealed, and the appeals court also focused on the language of Section 5815.33. The court decided that there was uncertainty in the statute over what constituted a "designation of beneficiary."

[T]he statute does not address whether an insurance policy must simply "provide" a designation of beneficiary that can somehow be shown to post-date the divorce—and if so, exactly how that is to be established—or whether in fact, the policy must contain some actual explanation of the express intent to re-designate the original beneficiary after the divorce, in

order to fulfill the statutory requirement of “specifically provide otherwise.”

RESULT: The absence of clear statutory language on post-divorce designation of beneficiary led the appeals court to reverse the decision of the trial court. The appeals court ruled that the insured’s statements to his agent to keep Patricia as the policies’ beneficiaries were an adequate “designation of beneficiary” as a matter of law. It directed judgment in favor of Patricia.

WRNewswire #14.12.30 was written by Linas Sudzius of [Advanced Underwriting Consultants](#).

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