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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: Courts Decide Two More Disputed Beneficiary Cases

CITES: [*UNUM Life Insurance Company v. Sides*](#), No. 1:12-CV-4400-RWS (N.D. GA, Nov. 13, 2014); [*Hites v. AAA Insurance Co.*](#), No. 12-034001-CK (Ct App MI, November 13, 2014); [*Davis v. Davis*](#), No. 2012-CA-002084-MR (Ct App KY, November 26, 2014).

SUMMARY: A federal district court and a Michigan appeals court recently considered challenges to life insurance beneficiary designations where the insured's prior divorce created uncertainty with regard to the intended beneficiary.

In *UNUM Life Insurance Company v. Sides*, a Georgia federal circuit court affirmed that the decedent's *new* wife was entitled to life policy proceeds, *despite* specific language in the insured's separation agreement requiring the decedent to have maintained coverage for the benefit of the insured's children.

In *Hites v. AAA Insurance Co.*, the insured named his *ex*-wife the beneficiary of his term life insurance policy (as required by his marital dissolution agreement). That policy lapsed. When the insured purchased a new term policy, he named his new wife rather than the former wife as beneficiary. When the insured died, the *ex*-wife claimed a portion of the new term policy's death benefit. The Michigan appeals court ruled that she was not entitled to *any* of the proceeds.

BACKGROUND: In the first case, Chris Sides purchased a life insurance policy in 1998 from Unum, naming his then-wife Casey Sides as the sole beneficiary. In 2007, Chris and Casy divorced and entered into a marital settlement agreement. As part of the agreement, Chris agreed to maintain \$250,000 of life insurance coverage naming his minor children as beneficiaries in trust with Casey as trustee.

In 2010, Chris submitted a change of beneficiary form, naming his new wife, Brooke Sides, as the beneficiary. In 2012, Chris died.

Brooke Sides, Casey Sides and Michelle Smith (as guardian *ad litem* of the minor children) all made claim for the life policy's death benefit. Unum filed the interpleader action in Georgia federal district court.

In the second case, Darrell Means owned a \$150,000 ten year term policy on his life, which had been issued by AAA Insurance Company prior to the time of his divorce from his wife Constance. The 2003 divorce consent judgment provided that Darrell name Constance irrevocable beneficiary of \$25,000 of "his life insurance policy with AAA."

The AAA term policy lapsed in 2008. Later that year, Darrell purchased a new term life policy with the face amount of \$50,000, naming his new wife, Linda Means, as the sole beneficiary.

Darrell died in January, 2013. His ex-wife Constance contacted AAA to claim \$25,000 of death proceeds, but was told that Darrell's old policy had lapsed and that he had purchased a new policy naming Linda the beneficiary. Constance sued in state court to claim her portion of the death proceeds. The trial court ruled in her favor, and Linda appealed.

FACTS: In the *Sides* case, the federal district court favored the presumed validity of the beneficiary designation. It found that Georgia law did permit the possible imposition of a constructive trust on life insurance death proceeds, but that Georgia law required "the policy to be identified in the decree" to compel payment to such a trust. The court examined the divorce decree and found that no specific policy was referenced. In the absence of a *specific* policy reference, the court refused to impose a constructive trust on behalf of the insured's children.

In contrast, in the *Hites* case, the 2003 divorce consent judgment made specific reference to the insured's life insurance policy with AAA. However, at the time of his death, the insured no longer owned the policy that had been in force at the time of his divorce. Regardless, the trial court decided to award \$25,000 of the new policy's death benefit to the insured's ex-wife Constance.

On appeal, the Court of Appeals of Michigan decided that the trial court had no authority to award a portion of the death benefit of the new policy to Constance:

We find that the language of the consent judgment of divorce is clear that Hites and the decedent bargained for a provision in their divorce judgment making Hites an "irrevocable beneficiary in the amount of \$25,000" of the decedent's life insurance policy with AAA in existence at the time of the divorce. The consent judgment of divorce does not state that the policy must be maintained indefinitely, or until the decedent's death, as erroneously found by the trial court. Additionally, the consent judgment of divorce fails to state that Hites's right to \$25,000 in life insurance

proceeds transfers to all future life insurance policies that the decedent may have with AAA.

RESULT: The courts ruled in both cases that the named beneficiaries were entitled to the death proceeds, despite the competing claims arising from the obligations originally created during the divorce proceedings of each insured.

RELEVANCE: These court decisions continue a long line of cases where the parties litigated the issue of proper beneficiary following the death of the insured. In both cases, the named beneficiary's claim for the death proceeds was honored by the courts. Also, in both cases, the specific language of the divorce settlement documents played a major role in the result.

It feels like new life insurance beneficiary cases related to divorce are being decided every day. After the two cases cited in this article were decided, a Kentucky appeals court considered another beneficiary dispute following divorce. That court ruled—in *Davis v. Davis*, decided on November 26—that the named beneficiary of a life policy should get the decedent's life insurance death benefit, despite what appear in the insured's divorce paperwork to be intentions to the contrary.

The opinions illustrate the value of detailed input from legal counsel and a professional insurance agent at the time of divorce.

- In the *Sides* case, the insured's ex-wife might have been better served in the divorce proceeding to have a more carefully drafted settlement agreement. According to the court, the lack of specificity with regard to the life insurance obligation defeated the expectation of the insured's children to receive \$250,000 of death proceeds.
- In the *Hite* decision, the court was not satisfied that the death benefit claim of the ex-wife survived after the lapse of the life policy in existence at the time of the divorce. Perhaps if the lapse of the term policy had been anticipated, the terms of the settlement agreement might have been written differently—and the ex-wife might have gotten part of the proceeds.

State laws vary widely. Therefore, it is essential that the laws of the state in question be followed carefully and that the life insurance beneficiary designations be coordinated with the terms of any marital divorce or separation agreement. Specific wording with regard to the parties' obligations and responsibilities is essential.

WRNewswire #14.12.05 was written by Linas Sudzius of [Advanced Underwriting Consultants](#).

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