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Who: *Kowalski v. Jackson National Life Ins. Co., et. al.*, 2013 WL 5954380.

What: A Florida federal court recently granted summary judgment in favor of a policy owner against an insured's estate on competing claims for the death benefit on a life insurance policy where the policy owner paid all premiums but mistakenly failed to designate herself as policy beneficiary. Despite previously ruling that the express terms of the policy entitled the estate to recover the proceeds of the policy, the court ruled it would be inequitable to permit the estate to recover the proceeds and granted the plaintiff's claim for unjust enrichment awarding the policy proceeds to the plaintiff.

According to the complaint, Jackson National originally issued the policy on March 18, 1992 on the life of Florence Kowalski with a face amount of \$175,500. The original policy owner and beneficiary was Edward Kowalski, who was Florence's son and plaintiff Lisa Kowalski's husband. Edward and Lisa made all premium payments on the policy from 1992 through 2008. In 2008, Edward died (predeceasing his mother) and Lisa executed a change of ownership naming herself the policy owner. Lisa did not, however, name herself beneficiary, meaning her deceased husband remained the named beneficiary. From 2008 until 2011, Lisa paid all policy premiums.

Following Florence's death, competing claims were submitted for the death benefit by Lisa and Florence's Estate which resulted in Lisa filing a Complaint with the Court. In ruling on cross-motions for summary judgment, the Court ruled that "under the circumstances it would be inequitable for the Estate to retain the policy proceeds without having contributed anything towards the payment of the policy premiums." The court relied primarily on the fact that Lisa, even after her husband's death, "continued to pay the policy premiums because she believed-albeit mistakenly-that she was both the policy owner and beneficiary." The court further relied on evidence from a recording of a conversation between Florence and Jackson National prior to Florence's death, in which Florence acknowledged that the policy belonged to her son and daughter-in-law and that her daughter-in-law had been paying the policy premiums. Consequently, the court held that to "allow the Estate to retain the policy benefits would represent a windfall to the Estate" and "it would be inequitable for the Estate to retain the policy proceeds."

When: November 7, 2013

Where: U.S. District Court, Southern District of Florida