

New York Law Governs STOLI Dispute In Texas

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A Texas appellate court's choice of law determination proved pivotal where a life insurer contested its duty to pay proceeds on the grounds that the policy was fraudulently acquired as part of a stranger-oriented life insurance (STOLI) scheme. In *American National Insurance Co. v. Conestoga Settlement Trust*, Conestoga acquired the rights to the policy's "pay on death benefits" through a series of assignments. ANICO claimed the policy was void because (a) there was no insurable interest; and (b) the application contained fraudulent misrepresentations. The policy insured the life of a New York resident. ANICO, though a Texas corporation, argued that New Jersey law applied because that was where the contract was negotiated and performed, and because New Jersey's interest in preventing and combating STOLI fraud outweighed any other interested jurisdictions' policy concerns. Conestoga, relying on the Restatement and the most significant relationship test, argued that New York law applied. **Because ANICO challenged the policy's validity after the contestability period had expired, the difference was critical – New York would preclude the challenge (as would Texas); New Jersey would not.** In holding that New York law applied, the court cited the policyholder's New York domicile at the time she applied for the policy and the lack of any other state with a "more significant relationship" to the issues. It rejected ANICO's arguments that New Jersey had the strongest interest in resolving the policy's validity. Despite ANICO's emphasis on the alleged fraud, or the "evils or legitimacy" of STOLI policies, the court found the "real issue ... [was] the ability of an insurance company to challenge the validity of an insurance policy after the expiration of the contestability period." ANICO had agreed to the contestability period when it issued its policy. Any interest New Jersey had in preventing and combating alleged STOLI fraud was "matched by a competing policy interest favoring finality of contracts as expressed in ... New York law."

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