

32-Year-Old Death Claim Sparks Litigation

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As the scope of insurers' obligations regarding unclaimed property continues to evolve, even insurers that actively identify deceased policyholders and pay the proceeds of previously unclaimed life insurance policies are not immune from suit. In *Burton v. Prudential Ins. Co. of Am.*, for instance, a California federal court recently granted in part Prudential's motion to dismiss a putative class action challenging the insurer's method of calculating interest rates on death benefits. The named plaintiff was the beneficiary of a \$1,000 life insurance policy issued by Prudential on the life of her son who died in 1981. Thirty-two years after her son's death, plaintiff confirmed the death and that she was the beneficiary. Prudential sent plaintiff a check for \$5,040.11— the \$1,000 death benefit due under the policy plus interest. In an apparent attempt to capitalize on the high interest rates of the early 1980's, plaintiff sued Prudential, claiming that the applicable California statute, which provides that the interest shall be "at a rate not less than the then current rate of interest" freezes the interest rate applicable to unclaimed policy proceeds on the date of death. Plaintiff argued the "then current rate" was fixed as the current rate as of the insured's date of death. Prudential countered that the statute merely requires insurers to credit interest at a rate no less than the rate that the insurer credits from the date of death forward on benefits left on deposit, subject to fluctuations over time. The court adopted Prudential's interpretation, which it found consistent with the underlying purpose of the statute, which is to discourage insurers from delaying payment. As the court reasoned, **under plaintiff's interpretation, "[i]f an insured died in a low interest rate year, insurers could be incentivized to hold onto the settlement through higher interest years to reap the excess interest."** Although limited to California's statute, this victory may be persuasive in other states with similar statutes.

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