

# Life Insurer Defeats Bid to Apply Policy Lapse Statute Retroactively

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In *Smith v. Jackson National Life Insurance Co.*, a beneficiary of a life insurance policy that lapsed prior to the death of the insured sued Jackson National for failing to provide sufficient notice of termination and wrongfully denying the death benefit.

The policy was issued in 1997, and it was governed by Utah law. Five years after the policy issued, the Utah Legislature passed section 31A-22-402(5), providing, in pertinent part, that the “insurer shall send written notice of termination of coverage ... at least 30 days before the date that the coverage is terminated.” The beneficiary claimed that Jackson National violated this law by sending written notice that immediate payment was due only 11 days prior to terminating the policy. The insured failed to make any payments, and died two days after the date of the lapse — on the very day that the final “Notice of Policy Lapse” was mailed by Jackson National. The beneficiary argued that, due to insufficient notice, the policy should not have been terminated and the death benefit should have been paid.

Jackson National moved for summary judgment, arguing that: (1) the statute did not retroactively apply; (2) Jackson National complied with the statute based on prior notices sent to the insured; and (3) the statute did not provide the plaintiff with a private right to sue. The court agreed with the first argument (rendering the other arguments moot), holding that the law in effect at the time the policy was issued “became a part of the parties’ insurance contract” and that the statute did not apply retroactively because the Utah Legislature never declared that intent, and because the statute created substantive contractual rights rather than mere “practice and procedure.” The court found that the plaintiff’s claim failed as a matter of law, and entered judgment for Jackson National.

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