

## **Not So Fast: Court Upholds Denial of Request for Accelerated Life Insurance Payment**

LIFE, ANNUITY, AND RETIREMENT LITIGATION | FINANCIAL SERVICES REGULATORY | SECURITIES & INVESTMENT COMPANIES | FEBRUARY 6, 2020



**Brooke Patterson**

The Ninth Circuit recently affirmed a summary judgment ruling in favor of Minnesota Life Insurance Co. on all claims stemming from its denial of an accelerated life insurance payment.

In *Bancroft v. Minnesota Life Insurance Co.*, Minnesota Life issued a group term life insurance policy to Bancroft's employer. The policy contained an accelerated benefits policy rider, which provided for accelerated payment of the full death benefit if the insured had a terminal condition. The policy rider defined terminal condition as a condition that directly results in a life expectancy of 24 months or less. Additionally, the policy rider required that the insured provide evidence to show his or her life expectancy.

Bancroft was diagnosed with lymphoma and requested his accelerated benefit, providing a statement from his doctor that his life expectancy was 24 months. However, Bancroft's doctor relied on an outdated publication, and Minnesota Life's medical reviewer determined that Bancroft's life expectancy was 37 months. Because the medical reviewer was unable to determine that Bancroft's life expectancy was 24 months or less with 90% certainty, which was the company's standard, Minnesota Life denied Bancroft's request. The policy rider and denial letter gave Bancroft the right to request mediation or binding arbitration, which Bancroft disregarded, instead filing suit against Minnesota Life. The parties filed cross-motions for summary judgment on Bancroft's claims of breach of contract, bad faith, breach of Washington's Insurance Fair Conduct Act (IFCA), and breach of the Washington Consumer Protection Act (WCPA).

The trial court found that Minnesota Life did not breach the policy rider, as Bancroft did not provide sufficient evidence to support a 24-month life expectancy, and all the medical testimony in the case, including Bancroft's own doctor, agreed that the life expectancy exceeded 24 months. The trial court also found that even though Bancroft had the right to arbitration or mediation, he did not invoke that right. Further, the trial court granted summary judgment on the IFCA and WCPA claims as Minnesota Life's decision to deny the accelerated payment was not unreasonable given the evidence.

The Ninth Circuit affirmed the trial court's decision. Relying on the medical evidence and especially the testimony of Bancroft's own doctor, the Ninth Circuit held that it was reasonable for Minnesota Life to conclude that Bancroft's life expectancy exceeded 24 months and to deny the accelerated payment. The Ninth Circuit also emphasized that Washington law requires an insured to assert his or her right to mediation or arbitration before proceeding to litigation, which Bancroft failed to do.

Minnesota Life eventually paid the accelerated life insurance payment to Bancroft, who provided new information about his life expectancy through court filings, which met the requirement of terminal condition under the accelerated benefits policy rider.