



Love prevails, despite incomplete beneficiary paperwork

In a previous AAMOL entitled, *All's Fair in Love and War....*, we looked at whether the Saskatchewan Queen's Bench would rectify a beneficiary designation as a result of an email and a submitted incomplete beneficiary designation form. The lower court was not prepared to do so and the matter was appealed.

To refresh you on the facts, Dennis Love and Lori Love were married in 1976. They had four children, with Thomas being the eldest. Mr. Love worked at the Saskatchewan Gaming Corporation. He was insured under a group plan through his employer and designated his wife Lori as beneficiary. Lori left the family home in 2002 and the couple divorced in 2006. They entered into a settlement arrangement in relation to their matrimonial affairs, including Mr. Love's pension but not the group policy designation.

In March of 2006, Mr. Love sent an email note to the human resource manager of his employer, Ms. Kelly, with the subject line indicating "Change of Beneficiary." Mr. Love was given a Group Coverage Change Form. The form was not properly completed nor signed when submitted.

Mr. Love died in 2009. Both Thomas and Lori Love made a claim to the group life insurance proceeds. At trial, the lower court would not rectify the beneficiary designation citing that the email and incomplete forms were not enough to meet the requirements under the Saskatchewan Insurance Act to change the designation to Thomas.

On appeal (*Love v. Love*, 2013 SKCA 31 (CanLII)), Thomas made a number of arguments but succeeded on only one: the "Doctrine of Rectification." The court concluded that Mr. Love's alteration of his coverage to single, along with completing the "Current Beneficiary Name Change" as opposed to the correct section the "Beneficiary Designation Change" was evidence of his advising that his beneficiary was changed from Lori Love to Thomas. He submitted the form to the Gaming Corporation, which from his perspective was necessary to give it full legal effect.

While the change form was not signed, the form was accepted by the Gaming Corporation and the insurance carrier acted on it by changing the coverage as requested in the form. Both parties took the change form to be legally effective and something they were obliged to act upon. Mr. Love had no reason to believe he had not been successful in making the change.

The court concluded that in these unusual circumstances, it is appropriate to rectify the change form so as to give it legal effect to Mr. Love's intention.

For Thomas, the good news is that he won his battle, however; he had to appeal to win. While he was awarded costs by the court, he had to face a delay, additional costs and the emotional drain of litigation.

The case is yet another reminder that clients need to consider all policies in existence and complete the paperwork accurately to make changes when life events occur such as a divorce. Advisors can be there to ensure the client follows through and in doing so, help prevent costly and timely litigation.

Date: June 2013

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