

IP 07-0795-C H/S Essick v Essick  
Judge David F. Hamilton

Signed on 12/17/08

**NOT INTENDED FOR PUBLICATION IN PRINT**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

BETTY ESSICK,	)	
	)	
Plaintiff,	)	
vs.	)	NO. 1:07-cv-00795-DFH-DML
	)	
GLORIA D. ESSICK,	)	
METROPOLITAN LIFE INSURANCE	)	
COMPANY,	)	
GENERAL MOTORS CORPORATION,	)	
	)	
Defendants.	)	



determined that Gloria was the only named beneficiary to Harry's Basic Life policy and was thus the rightful recipient of those funds. After MetLife upheld its initial determination on administrative review, Betty brought this suit under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 *et seq.* Defendants Gloria, MetLife, and General Motors seek summary judgment on Betty's claims. Dkt. 27, 31. For the reasons set forth below, the defendants' motions are granted. Defendants MetLife's and General Motors' renewed motion for attorney fees (Dkt. 42 at 5-6) is denied.

#### *Summary Judgment Standard*

Summary judgment must be granted if the record shows "that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). A factual issue is genuine if there is sufficient evidence for a reasonable finder of fact to find in favor of the non-moving party. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A factual issue is material if resolving the issue might change the suit's outcome under the governing law. *Id.*

When deciding a motion for summary judgment, the court considers those facts that are undisputed and gives the non-moving party the benefit of all reasonable inferences from the evidence. See Fed. R. Civ. P. 56(c); *Anderson*, 477 U.S. at 255; *Baron v. City of Highland Park*, 195 F.3d 333, 337-38 (7th Cir.

1999). However, a party must present more than mere speculation or conjecture to defeat a summary judgment motion. The issue is whether a reasonable fact-finder might rule in favor of the non-moving party based on the evidence in the record. *Anderson*, 477 U.S. at 252; *Packman v. Chicago Tribune Co.*, 267 F.3d 628, 637 (7th Cir. 2001).

### *Statement of Undisputed Material Facts*

#### I. *Harry's Employment and the Plan*

Harry Essick began his employment with General Motors in 1966 and was a participant in General Motors' Life and Disability Plan throughout his employment. The Plan defined its "Program Administrator" as General Motors and defined its "Carrier" as the entity that underwrote coverage or paid benefits. MetLife was a Carrier for the Plan and in that role served as claim administrator, determining claimants' eligibility for benefits and deciding claims in accord with the Plan's procedures. R. 213, 302, 310, 319-20.

#### II. *Relevant Plan Terms*

As the Program Administrator, General Motors expressly reserved discretionary authority to "to construe, interpret, and apply the terms of this Program." R. 318. The Plan also granted MetLife, as Carrier of the Plan, "discretionary authority to interpret the terms of the Program and to determine

eligibility for and entitlement to Program benefits in accordance with the terms of the Program.” R. 318-19.

When an employee who was insured under the Basic Life benefit died, the Plan directed that “the amount of Basic Life Insurance . . . is payable to the beneficiary of record of the Employee. . . .” R. 333. The insurance certificate issued by MetLife for the Plan’s Basic Life benefit set forth “the administrative provisions regarding the recording of beneficiary designations, [and] changes of beneficiary. . . .” R. 334. The Certificates of Insurance for the Plan’s Basic Life benefit issued in 1990 and 2001 both provided that a participant’s beneficiary is the person designated by the participant in writing, on a form approved by MetLife, and filed in the Plan’s records. R. 475, 494. A participant could change the beneficiary of the Plan at any time by filing a new form with MetLife, and a participant did not need the consent of the beneficiary to make such a change. R. 475, 494.

### III. *Harry’s Beneficiary Designations*

In 1966, Harry’s first year of employment with General Motors, he designated his mother as his life insurance beneficiary. R. 124.<sup>1</sup> Harry and Gloria were married in 1968, and Harry changed the designated beneficiary for his Basic

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<sup>1</sup>MetLife and General Motors assert that at the time, General Motors offered only a single life insurance benefit that continued as the Plan’s Basic Life Benefit. Dkt. 28 at 4, n.3. Betty does not dispute this point, and it is irrelevant for purposes of the defendants’ motions for summary judgment.

Life benefits to Gloria. R. 123. Harry was offered Optional Life benefits on August 22, 1972, but he declined coverage at that time. R. 111. On August 23, 1972, Harry reaffirmed his designation of Gloria as his beneficiary for his Basic Life benefits. R. 122. Then, on June 4, 1974, Harry enrolled in General Motors' Optional Life program and designated Gloria for his beneficiary of those benefits, as well. R. 110.

Harry and Gloria divorced in 1975. R. 13-19. On May 27, 1975, Harry changed his Optional Life beneficiary designation to his brother. R. 109. Then, on January 31, 1976, Harry married Betty, and on February 2, 1976, Harry designated Betty as his beneficiary for his Optional Life benefits. R. 93, 108. Harry died nearly thirty years later on March 11, 2005. The administrative record before MetLife (and the record before this court) does not show that Harry made an attempt to designate anyone other than Gloria as his Basic Life beneficiary at any time.

#### IV. *MetLife's Initial Denial of Betty's Claim*

Betty filed a claim for Harry's life insurance benefits on April 20, 2005. R. 237-39. MetLife reviewed Betty's claim and found that Harry's file contained a beneficiary designation form for his Basic Life benefit naming Gloria and a form for his Optional Life benefit naming Betty. R. 235. Through her counsel, Betty advised MetLife that she had "substantial evidence to show that Mr. Essick had filled out the paperwork to change [the Basic Life Plan] beneficiary to . . . Betty L. Essick" and that Gloria had "revoked and released her interest as the beneficiary at the time of the dissolution" of her marriage to Harry. R. 226. MetLife paid Harry's Optional Life benefit to Betty (in the amount of \$398,400). While it investigated her Basic Life claim, MetLife withheld payment of those benefits. R. 145, 225.

On October 5, 2005, MetLife denied Betty's claim for Harry's Basic Life benefits. R. 213-15. MetLife explained its reasons for its denial. MetLife had determined that Harry's most recent beneficiary designation on file named Gloria as his Basic Life beneficiary, and Harry's and Gloria's divorce decree was silent with respect to any life insurance policies. Under the terms of the Plan's insurance certificate, Gloria remained Harry's designated beneficiary for his Basic Life benefits. R. 213.

V. *Betty's Administrative Appeal*

On December 1, 2005, Betty appealed MetLife's denial of her claim for Harry's Basic Life benefits. R. 10-12. In her appeal, Betty referred to and incorporated a letter that she had sent to General Motors on June 18, 2005. R. 10. She based her appeal on several grounds, including the language of Gloria's and Harry's divorce decree, R. 20, "the Indiana Dissolution Statute," R. 10-11, the language of Harry's Will, R. 20, Betty's assertion, based on Harry's change of beneficiary for his Optional Life benefit and his change of beneficiary for an unrelated life insurance policy, that after marrying her, Harry "changed the beneficiary on both policies to being his wife, Betty," R. 11-12, 21, and Harry's 2002 General Motors Personal Enrollment Information, which she asserted listed her as Harry's "dependent." R. 12.

On December 22, 2005, MetLife upheld its denial of Betty's claim. MetLife's reasons for upholding the denial were: (1) "MetLife, as claim fiduciary, must administer claims in accordance with ERISA and the documents and instruments governing the plan"; (2) the Plan requires that benefits be paid to the beneficiary designated in writing by the employee; (3) the documents submitted by Betty showed that Harry named Betty as the beneficiary of only his Optional Life benefits, not the Basic Life benefits; and (4) Seventh Circuit precedent required that generic or blanket property settlement agreements in divorces not displace

the operation of ERISA plan-specific language to determine a beneficiary. R. 1-2. Betty then filed this lawsuit.

### *Discussion*

General Motors' Life and Disability Plan, including identification of the proper beneficiary under its Basic Life component, is regulated by ERISA. "Under an ERISA plan, benefits must be paid to a 'beneficiary' who is 'designated by a participant, or the terms of [the] plan.'" *Metropolitan Life Ins. Co. v. Johnson*, 297 F.3d 558, 566 (7th Cir. 2002), quoting 29 U.S.C. § 1002(8). Under the General Motors Plan, when an employee insured under the Basic Life benefit dies, "the amount of Basic Life Insurance . . . is payable to the beneficiary of record of the Employee. . . ." R. 333. The Certificates of Insurance for the Plan's Basic Life benefit issued in 2001 provide that a participant's beneficiary is the person designated by the participant in writing, on a form approved by MetLife, and filed in the Plan's records. R. 475. MetLife determined that Gloria was the beneficiary designated by Harry, so that ERISA mandated that the Basic Life benefits be paid to her.

Under ERISA, "a denial of benefits . . . is to be reviewed under a *de novo* standard unless the benefit plan gives the administrator or fiduciary discretionary authority to determine eligibility for benefits or to construe the terms of the plan." *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101, 115 (1989). If the plan gives

the administrator discretionary authority, then review of the administrator's decisions is conducted using an "abuse of discretion" standard. *Metropolitan Life Ins. Co. v. Glenn*, 554 U.S. —, 128 S. Ct. 2343 (2008), *Hess v. Reg-Allen Mach. Tool Corp. Employee Stock Ownership Plan*, 502 F.3d 725, 727 (7th Cir. 2007); *Trombetta v. Cragin Federal Bank for Savings Employee Stock Ownership Plan*, 102 F.3d 1435, 1437 (7th Cir. 1986).

When the abuse of discretion standard applies, an administrator's decision stands if it was reasonable under the plan's terms and all available facts. *Tegtmeier v. Midwest Operating Engineers Pension Trust Fund*, 390 F.3d 1040, 1046 (7th Cir. 2004). A decision is an abuse of discretion "only when the decisionmaker 'has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence . . . or is so implausible that it could not be ascribed to difference in view or the product of . . . expertise.'" *Trombetta*, 102 F.3d at 1438, quoting *Pokratz v. Jones Dairy Farm*, 771 F.2d 206, 209 (7th Cir. 1985). Here, because the plan gives MetLife discretionary authority, the court reviews MetLife's decision under the abuse of discretion standard.<sup>2</sup>

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<sup>2</sup>Betty does not state whether she believes the court should review her claim *de novo* or should apply the abuse of discretion standard. See Pl. Br. 2. The court is not obliged to develop any argument on Betty's behalf and considers any such argument about the standard of review to be forfeited.

Betty presents three arguments to show that MetLife's determination was an abuse of discretion. First, she contends that MetLife's review process was flawed because she was not given the opportunity to testify that she witnessed Harry fill out and sign a change of beneficiary form naming her as the beneficiary to his Basic Life benefits. Second, Betty argues that Gloria waived her rights to any of Harry's property when their marriage was dissolved and that this waiver applied to Gloria's designation as Harry's Basic Life beneficiary. Third, she asserts that statements that Harry received from General Motors led him to assume falsely that he had changed his Basic Life beneficiary to Gloria. Betty's arguments are insufficient to overcome the defendants' summary judgment motions.

I. *Betty's Lack of Opportunity to Testify*

Betty argues that MetLife should have given her the opportunity to testify in person. She states in her brief that she witnessed Harry fill out and sign a change of beneficiary form naming her as the beneficiary to his Basic Life benefits, and that she had "good reason to believe" that Harry then turned in the form to General Motors' main office. Pl. Br. 2-3. She states, "not being allowed to appear before a Met Life 'judge' denied the Plaintiff the opportunity to impress and convince the 'judge' of what she had observed." *Id.* at 3. She further asserts that "it is a question of fact as to whether or not the Plaintiff's late husband had substantially complied with the General Motors and Met Life change of beneficiary requirement." *Id.* at 4.

This court's review of MetLife's decision is limited to the record before the administrator at the time its decision was made. See *Hess*, 423 F.3d at 662, citing *Vallone v. CNA Fin. Corp.*, 375 F.3d 623, 629 (7th Cir. 2004). The relevant evidence before the court is the administrative record, and only the administrative record.<sup>3</sup> Betty points to no evidence in that record to support her contention that Harry ever filled out a change of beneficiary form for his Basic Life plan. Nor does she point to any evidence that she requested and was denied the opportunity to testify to MetLife, undercutting her argument that she was "not allowed" or was "denied the opportunity" to present such evidence to MetLife.

Also, even if Betty had requested to present oral testimony to MetLife, ERISA and its regulations would not require MetLife to grant such a request. The Seventh Circuit rejected a similar argument in *Brown v. Retirement Committee of Briggs & Stratton Retirement Plan*, 797 F.2d 521, 534 (7th Cir. 1986). The claimant in *Brown* contended that she was denied a full and fair review of her claim

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<sup>3</sup>In limited circumstances an ERISA plaintiff may have the opportunity to supplement the administrative record if the abuse of discretion standard applies. See *Metropolitan Life Ins. Co. v. Glenn*, 554 U.S. —, — 128 S. Ct. 2343, 2351 (2008) (plaintiff should have opportunity to supplement the record where there is a challenge to the objectivity and honesty of the plan administrator's decision). Those circumstances do not exist here. Even if it were possible for the court to look beyond the administrative record in this case, Betty needed to come forward with competent evidence, such as a sworn affidavit, to support her assertion that she witnessed her husband completing a change of beneficiary form. See Fed. R. Civ. P. 56(e)(2) ("When a motion for summary judgment is properly made and supported, . . . [an opposing party's] response must – by affidavits or as otherwise provided in this rule – set out specific facts showing a genuine issue for trial." Betty has not done so. Her argument would fail even if she were permitted to present evidence outside of the administrative record, which she is not.

because she was not allowed to appear before her plan's administrative committee to explain in person why she believed she was disabled. The court found, however, that the claimant had been allowed to present as much documentary evidence as she wished, that the committee considered that evidence before reaching its decision, and that the committee explained its decision to the claimant. On that record, the Seventh Circuit found as a matter of law that the claimant had received a full and fair review of her claim. *Id.* Similarly here, Betty was permitted to present as much documentary evidence as she wished to support her claim for benefits, MetLife reviewed that documentation and explained its decision based on that documentation. Betty presented no competent evidence either to MetLife or to this court to support her belief that Harry attempted to remove Gloria as his Basic Life beneficiary before his death. MetLife's determination was not an abuse of discretion on this basis.

## II. *The Divorce Decree and Property Settlement*

Second, Betty argues that Gloria "waived her rights" to any of Harry's property, including his Basic Life benefits, when their marriage was dissolved. Pl. Br. 3-4. In support of this argument, Betty submitted Gloria's and Harry's dissolution decree and property settlement. R. 218-24; Pl. Ex. F.

ERISA preempts state laws to the extent they relate to employee benefit plans and are not otherwise exempt from preemption. 29 U.S.C. § 1144(a);

*Egelhoff v. Egelhoff*, 532 U.S. 141 (2001). In the divorce context, ERISA does not preempt an *explicit* waiver of interest by a non-participant beneficiary of an employee benefit plan governed by ERISA. See *Fox Valley & Vicinity Construction Workers Pension Fund v. Brown*, 897 F.2d 275, 280-82 (7th Cir. 1990) (enforcing ex-wife's waiver that explicitly mentioned employment-related benefits). However, unless the waiver contains "a specific termination of the rights in question" and is "explicit, voluntary, and made in good faith," ERISA will operate to preempt any state-law waiver of rights, including a divorce decree. See *Melton v. Melton*, 324 F.3d 941, 945 (7th Cir. 2003), quoting *Manning v. Hayes*, 212 F.3d 866, 874 (5th Cir. 2000). No particular language is required; the operative question is whether a reasonable person would have understood that she was waiving her interest in the proceeds or benefits in question. *Melton*, 324 F.3d at 945, citing *Clift v. Clift*, 210 F.3d 268, 271 (5th Cir. 2000). The *Melton* court found that no such waiver had occurred where the divorce decree contained a "blanket revocation" of the parties' interests in the marital property and a general revocation of any interest in "any asset . . . evidenced by an instrument naming the non-owning party a beneficiary . . . [including] annuities, life insurance policies." *Melton*, 324 F.3d at 946. Even the mention of life insurance policies was insufficient to create a waiver because the decree did not "expressly identify [the insured's] ERISA-regulated employee group term life insurance; . . . the waiver here never mentions employment related benefits at all." *Id.*

The divorce decree between Harry and Gloria apportioned their marital property, including real estate, a boat, household goods, two cars, and eight debts. R. 218-24; Pl. Ex. F. The property settlement was silent as to any ERISA-regulated life insurance plans, including Harry's Basic Life benefit, so there is no valid waiver under *Melton*. MetLife found that Gloria had not waived her interest as beneficiary of Harry's Basic Life benefit by agreeing to the divorce decree or property settlement. MetLife's determination was not an abuse of discretion.

C. *General Motors Benefits Statements*

Finally, Betty asserts that Harry received annual statements from General Motors setting forth his accumulated benefits and referring to his "surviving spouse" as the beneficiary of the proceeds of his insurance benefits. Pl. Br. 4. From these statements, Betty contends, she and Harry "could rightfully assume . . . that Mr. Essick had in fact changed the beneficiary of his insurance plans." *Id.* The annual General Motors benefits statements that Betty presented in support of this argument undermine her assertions.<sup>4</sup> Those statements refer to Harry's "surviving spouse," but only in the context of Social Security benefits.

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<sup>4</sup>Gloria argues in reply that these General Motors benefits statements are not properly before the court because they do not appear in the administrative record. Gloria Reply 4. Betty's counsel generally referenced these statements in his letter to MetLife dated December 1, 2005. Although he did not enclose copies of the statements with his letter (apparently because he believed that MetLife had ready access to them, so additional copies would not be necessary), he offered to provide copies to MetLife on request. R. 12. The court need not resolve whether the statements are appropriately before the court on review. Because they offer no support for Betty's claim, Gloria's objection is moot.

They do not name Betty specifically, as her brief implies. See Pl. Ex. G. at 2 (“Social Security could pay a surviving spouse and children as much as \$1144 PER MONTH”); Pl. Ex. H at 3 (“Social Security could pay a surviving spouse and/or children as much as \$1,881 PER MONTH.”); Pl. Ex. I at 3 (“Social Security could pay a surviving spouse and/or children as much as \$2,064 PER MONTH.”). Directly contrary to Betty’s assertions, the 1990 and 1992 versions of those statements state plainly that Basic Life and Optional Life benefits will be paid to “your designated beneficiary.” Pl. Exs. H at 3, I at 3. The 1981 statement differs only in that it refers to “your beneficiary” in describing who would receive Harry’s life insurance benefits. Pl. Ex. G at 2. Betty’s argument has no support in the record.

### *Conclusion*

For the foregoing reasons, the defendants’ motions for summary judgment are granted. General Motors and MetLife’s renewed motion for attorney fees (Dkt. 42 at 5-6) is denied. Final judgment will be entered accordingly.

So ordered.

Date: December 17, 2008

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DAVID F. HAMILTON, CHIEF JUDGE  
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Southern District of Indiana

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