



In this Issue

[Message from the Chair](#)

[Editor's Message](#)

[The Western District of New York Granted Summary Judgment to Originally-named Beneficiary of Annuities in Interpleader Action Because He Lacked Capacity to Disclaim His Benefits.](#)

[Genworth Life Ins. Co. v Dwaileebe: Analysis under Michigan Law of Testamentary and Contractual Capacity](#)

[The Southern District of Maryland Upheld an Annuity Company's Rejection of a Beneficiary Change](#)

[Proceed With Caution: Avoiding the Potential Pitfalls of Utilizing Interpleader Actions to Resolve Insurance Coverage Disputes Involving Multiple Claimants and Insufficient Policy Limits](#)

[Northern District of Illinois Upholds a Guardian Ad Litem's Court-Approved Change of Beneficiary on Decedent's Life Insurance Policies](#)

[The Ninth Circuit Considers a District Court's Sua Sponte Dismissal of an Interpleader Action](#)

The Ninth Circuit Considers a District Court's Sua Sponte Dismissal of an Interpleader Action

by Nicole True



The Ninth Circuit considers a district court's sua sponte dismissal of an interpleader action on the grounds that the parties failed to make a good-faith effort to comply with their stipulation to resolve the case and the interpleading plaintiff filed the interpleader prematurely.

The Ninth Circuit Court of Appeals has been asked to decide whether a district court erred when it *sua sponte* dismissed an interpleader after it determined that: (1) the parties had failed to make a good faith effort to comply with their stipulation to resolve the matter by agreement or state court adjudication; and (2) the interpleading plaintiff had filed the interpleader prematurely. See *Society Ins. v. Nystrom*, No. CV-13-01007-PHX-NVW, 2016 WL 4703329 (D. Ariz. Sept. 8, 2016), *appeal filed* Oct. 7, 2016 (Case No. [16-16812](#)).

Society Insurance filed the interpleader after it received multiple claims under a business auto insurance policy after a car accident on February 6, 2013. The insureds had two policies with Society: a business auto insurance policy ("the auto policy") and a garage business owner's policy ("the business owner's policy"). James Sparish was driving a truck insured by Society under the auto policy when he ran a red light and collided with a vehicle driven by Christine St. John. Sparish had two passengers in his vehicle, Donna Nystrom and David DeGross. Nystrom and DeGross were injured and hospitalized and DeGross later died from his injuries. St. John also had two passengers in her vehicle, Spencer St. John and S.S. St. John and her two passengers (hereinafter, the "St. Johns") were injured and received medical treatment at Mountain View Vista Medical Center ("MVVMC").

Because Society believed that the claims could exceed the auto policy's \$500,000 bodily injury limit, it filed an interpleader under 28 U.S.C. § 1335, naming DeGross's statutory beneficiaries ("the DeGrosses"), Nystrom, the St. Johns, and MVVMC as defendants. On April 11, 2014, the parties stipulated as follows:

- Society could deposit the auto policy limits with the Court;
- Defendants were enjoined from suing Society with regard to the auto policy;
- Society was discharged from any further liability arising from the auto policy;
- The parties would allocate the interpleaded funds through either:
 - An agreement of the parties; or
 - "[T]he adjudication of the state court system's allocation of the Disputed Funds to the Defendants."
- The defendants were not barred or otherwise limited from bringing suit against Sparish personally or from pursuing claims under other insurance policies issued by Society.

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Society deposited the funds with the Court on May 27 and, pursuant to the parties' stipulation, was dismissed from the case with prejudice on July 29.

On January 23, 2015, the DeGrosses filed a wrongful death action against Sparish in Pinal County ("the DeGross suit"). Society is defending Sparish in the DeGross suit pursuant to a reservation of rights under both the auto policy and the business owner's policy. Although Sparish has admitted he ran a red light, he denied that he drove negligently. On August 11, Society filed a declaratory action in Wisconsin state court seeking a determination that there is no coverage for the accident under the business owner's policy ("the declaratory action"). DeGross and Sparish twice agreed to stay the DeGross suit to await decisions in the interpleader (which itself was on hold) and the declaratory action.

On October 21, 2015, the Court ordered the defendants to provide an update regarding the matter. After learning that there had been nearly no progress for over one year, the Court vacated the portion of the stipulation that addressed allocation of the interpleaded funds. The Court then set a Rule 16 Scheduling Conference for September 1, 2016 and ordered counsel for Society to attend. Thereafter, the parties discussed settlement, but no settlement was reached.

A week later, the Court *sua sponte* entered an order dismissing the interpleader because it had determined that (1) the parties had not made a good faith effort to comply with their stipulation to resolve the matter through agreement or state court adjudication; and (2) Society had filed the interpleader prematurely. The Court determined that the parties had not made a good faith effort to comply with their stipulation because:

After signing this stipulation, the parties did not meet for a settlement conference. They did not file a state court action to adjudicate allocation of the Disputed Funds. No one attempted to resolve allocation of the Disputed Funds by either agreement or state court adjudication.

The Court determined that Society had prematurely filed the interpleader because it had interpleaded the policy limits "before its obligations to Sparish under the business automobile policy were clear." In reaching this conclusion, the Court emphasized that Society is defending Sparish under a reservation of rights in the DeGross suit where Sparish has denied that he was driving negligently. The Court further noted that it could not "equitably apportion the Disputed Funds, provided under the business automobile policy, without knowing which, if any parties may receive additional compensation under the garage business owners policy."

The Court then provided two reasons why those defendants who had not yet filed suit outside of the interpleader could still do so despite the fact that the two-year statute of limitations had already passed: (1) because the action was being dismissed for a reason other than abatement, voluntary dismissal, dismissal for lack of prosecution, or a final judgment on the merits, the statute of limitations would be extended for six months after dismissal pursuant to Arizona's saving statute; and (2) "even if the limitations for Defendants' claims against Sparish were not extended by statute, the equitable nature of interpleader would require extension of the limitation period for parties who timely asserted claims in this action."

Society appealed to the Ninth Circuit arguing that the Court erred when it dismissed the interpleader because:

- It was the defendants' responsibility to prosecute the matter after Society was dismissed from the action and the consequence for that failure was extinguishing defendants' claims and the return of the interpleaded funds—not dismissal of the interpleader.
- The interpleader was not premature because Society had a good faith belief that multiple parties had or may have colorable claims and was not otherwise required to determine the merit of those claims or the value of those claims.

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- Society was prejudiced because Society lost the benefits afforded by interpleader, in particular, protection against multiple claims and the safe harbor from bad faith claims.
- The defendants who have not filed a separate suit may be prejudiced if a state court disagrees with the Court's interpretation of the viability of those defendants' suits.

MVVMC and the St. Johns joined in the brief submitted by Society. The DeGrosses filed an Answering Brief arguing that the Court's decision was proper except to the extent the Court opined that the DeGrosses' co-defendants' claims were not barred by the statute of limitations. Briefing for this case was completed at the end of March. It remains to be seen whether and to what extent the Court will address any of the interesting interpleader issues raised by this case.

Nicole True is an associate attorney at Lewis Roca Rothgerber Christie, LLP, a regional law firm with offices in six Western states. Nicole is admitted to practice in Arizona and Nevada. Nicole's practice focuses primarily on defending claim denials made under disability, life, and property insurance policies. Nicole also represents claim administrators and plan administrators in benefit denial and reimbursement lawsuits brought under the Employee and Retirement Income Security Act ("ERISA"). She may be reached at ntrue@lrrc.com.

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