

# LIFE INSURANCE

Gender:  M  F

## Life Insurance: The Two Year Contestability Period

*Most Florida residents are unaware that if they die within two years of taking out a life insurance policy, Florida Statute section 627.455 grants the insurance company the right to fully investigate the insured's completed life insurance application for any material misrepresentation. Even if the cause of death was not in any way related to the alleged material misrepresentation, the insurance company has the right and often does rescind the policy and deny the claim. Unfortunately, many of these claims are wrongfully denied by the insurance company.*

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Recently our firm prevailed against an insurance company by obtaining a final summary judgment in federal court after it wrongfully denied a claim for much needed life insurance benefits. After an investigation, the insurance company attempted to rescind the policy by claiming our client's husband materially made misrepresentations on his application regarding alleged pre-existing conditions of chronic bleeding and depression. Our client attempted to resolve the dispute on her own to no avail. On several occasions during the lawsuit, the insurance company tried to use the client's written correspondence made after the claim was denied against her.

***Not accepting no for an answer, she hired our firm.***

After scrutinizing the application, our firm realized that the insurance company did not ask about pre-existing conditions but instead only asked whether the prospective insured had been diagnosed by a medical provider as having chronic bleeding or depression. Our firm argued that while a doctor recorded "symptoms" provided by the insured himself, no official "diagnosis" was made. The court agreed and found that there was no misrepresentation made on the life insurance application. As a result, the client received her life insurance benefits plus interest, costs and attorney's fees.

The details of this case highlight two critical steps that all life insurance policy applicants should practice:

*1. During the application process, submit all medical records to the insurance company prior to agreeing to the policy terms and conditions. This ensures that all pre-existing conditions were disclosed and that the policy was developed and contracted with all the information.*

*2. The moment an insurance company questions you about a claim, do not respond and immediately seek the advice of an attorney. Any communication from you about your claim, both written and verbal, can be used against you.*



***Tony Sos***

- Florida's Super Lawyers Rising Star: 2009-2012
- Florida Trend "Up and Comer" Legal Elite: 2007



***W. Doug Martin***

- Florida's Super Lawyers Rising Star: 2011-2012
- Florida Trend "Up and Comer" Legal Elite: 2012
- The National Trial Lawyers Top 40 Under 40: 2012

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