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Recommended Citation

John G. Kelly, *Recent Developments in Double Indemnity Law*, 33 Cornell L. Rev. 360 (1948)

Available at: <http://scholarship.law.cornell.edu/clr/vol33/iss3/7>

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RECENT DEVELOPMENTS IN DOUBLE INDEMNITY LAW†

JOHN G. KELLY

Double indemnity, in the sense here used, is the special benefit provision of a life insurance policy under which double the face amount of the insurance is payable in stated circumstances. It is in a broad sense the equivalent of the accidental death coverage in an accident and health policy. Allowing, of course, for the variations in the language of individual policies, the circumstances under which double indemnity is payable are in general upon proof that the insured's death resulted directly from bodily injury caused solely by external, violent and accidental means and was not due directly or indirectly to disease or bodily or mental infirmity. Payment of this special benefit is usually subject also to certain additional limitations: That death occur before a certain age, e.g., 65, or in some cases 60, and that it occur within a specified number of days after the accidental injury, e.g., 60 or 90 days. Certain specific exclusions from coverage are customary. Among these are deaths due to suicide, war, military or naval service in time of war, and certain aviation deaths. This special benefit is usually provided at a premium rate graded by age and ranging from approximately \$1.00 to \$2.00 per \$1,000 of insurance.

Double indemnity is a desirable supplement to the primary life insurance. It is intended to provide double payment to the beneficiary at the time of greatest need when the insured meets an untimely and premature death as the result of accidental injury.

A discussion of the legal phase of double indemnity might not appear in proper focus unless projected against a background of the total picture of double indemnity. Inquiry as to the 1946 experience of a group of representative life insurance companies disclosed that in that year these companies considered claims for double indemnity in total amount of \$17,241,259; they paid such claims in the amount of \$14,930,352. Under those claims which were declined as not within the coverage, suit to compel payment had been brought in cases involving \$445,321, or 2.5% of the total amount on which action had been taken. It is, of course, recognized that the latter

†A paper delivered at the Health, Accident and Life Insurance Law Round Table of the Insurance Section of the American Bar Association 70th Annual Meeting held at Cleveland, Ohio in September, 1947. A compilation of the leading American double indemnity and related cases of the period covering the years 1942 to 1947 appears in an appendix to this article. [Ed.]

figure is not a final one, since in some instances, suit may be instituted at a later date. However, these figures are deserving of note at this point lest our consideration of recent developments in double indemnity law appear to give an exaggerated impression of the relation of litigated cases to the total picture.

A fairly common factual situation which has served as a basis for a double indemnity claim is this:

A person of advanced years (upwards of 60 years of age) falls to the floor and sustains a fractured hip. Death follows within a few days or weeks thereafter. There is evidence of prior serious physical impairment extending over a period of years including difficulty in locomotion. There is no witness to the fatal fall and no direct evidence of its nature.

Under such circumstances, has the beneficiary sustained her burden of proof and established that death was due to injuries received solely from external, violent and accidental means and not directly or indirectly to disease or bodily infirmity? Some Courts have said "No".¹ The Supreme Court of Indiana and the Supreme Court of Oregon stated that in the absence of any evidence that the insured had slipped or stumbled and in the light of the prior physical impairments affecting locomotion, it would be pure speculation to permit a choice between the equally probable alternatives of a fall caused by the insured's physical impairments and a fall unrelated to them. Both Courts agreed that under such circumstances a decision cannot be predicated upon a mere presumption or assumption that because there was a fall, the fall was an accident.

The St. Louis Court of Appeals took a different view.² In the Missouri case, the insured was 69 years of age. There was a history of progressive lateral sclerosis of the spine causing difficulty in locomotion for more than a year prior to his death. This history included a hospital record (dated over a year prior to the death), reading in part:

" . . . has had progressive symptoms in legs and back of very vague nature. He states that he has a painful back and great difficulty in walking and a slight degree of nervousness. He states that if he looks down while walking, he tends to fall forward; if while sitting he looks up, he becomes dizzy. . . . Cannot step off curbstone for fear of falling."³

On the day the insured received his fatal injuries he was alone in the bed-

¹Prudential Ins. Co. v. Van Wey, 223 Ind. 198, 59 N. E. 2d 721 (1945); Seater v. Penn Mutual Life Ins. Co., 176 Ore. 542, 156 P. 2d 386 (1945), *rehearing*, 176 Ore. 542, 159 P. 2d 826 (1945).

²Beimdiek v. New York Life Ins. Co., 183 S. W. 2d 379 (Mo. App. 1944).

³*Id.* at 381.

room of his apartment. When his wife called him to dinner she heard a thud. On going to his room she found him sitting on the floor. In answer to her inquiry, he said he had tried to grab the footboard of the bed and had missed it. He died of terminal pneumonia following confinement to bed as the result of a fracture of the hip sustained in the fall.

In affirming judgment for the beneficiary, the Court stated that: "In the opinion of the writer it would be difficult to visualize more convincing circumstantial proof of an accidental fall of the insured than that presented by the record in this case." The Court conceded that no one saw the insured fall, and that other than the statement of the insured that he attempted to grab the footboard of the bed and missed, the question must be answered from the circumstances proved and the inferences therefrom. It added, however, that in cases such as this ". . . there is a well established presumption of law that the injured person did not voluntarily inflict the injury upon himself and that the injury was due to an accident".⁴

Another case in which the Court found the inference of accidental injury to be stronger than that of death due directly or indirectly to disease, involved a young man 31 years of age who sustained fatal injuries when the automobile he was driving left the road, crashed into a tree, plowed through a field, jumped a railroad track, and ended up in a rock pit of water 20 feet deep.⁵ On the insured's body when removed from the car was a card bearing his name and the notation: "Subject to convulsions; in case of an attack, no doctor needed. Let me stay quietly until I awake naturally."

There was a prior seven-year history of convulsions and periods of unconsciousness. The day on which the accident occurred was clear; there were no obstructions on the highway, nor were there any skid marks, broken glass or other indications that the brakes had been suddenly applied or that the auto had collided with another object.

The Supreme Court of Florida held that the plaintiff had sustained the burden of proof on the ground that where death by external and violent means is established, a presumption is thereby created or prima facie proof is thereby made that death was likewise by accidental means. It stated that unless there are facts and circumstances shown which established the contrary, the one who has the burden of proving death by accidental means will be entitled to recover.

Another factual situation involving pre-existing disease and a so-called accident is found in those cases in which some exertion of the insured precipi-

⁴*Id.* at 382.

⁵*Metropolitan Life Ins. Co. v. Jenkins*, 153 Fla. 53, 13 So. 2d 610 (1943).

tates a fatal heart attack. A 61-year old man suffered a coronary thrombosis and died shortly after having pushed his automobile a distance of 50 feet. The autopsy established extensive and long-standing sclerosis of the coronary artery with narrowing of the lumen. Medical testimony was to the effect that any exertion which would cause a rise of blood pressure could have precipitated the coronary occlusion. In denying that double indemnity under two life insurance policies and the death benefit under a policy of accident insurance were payable, the Supreme Court of Washington made a most exhaustive review of the authorities on the question of accidental means versus accidental result, and concluded that the policies required (as stated by their terms) proof of injury sustained through accidental means; that accidental means were never present when a *deliberate* act is performed unless some additional unexpected, independent and unforeseen happening occurs which produces or brings about the injury, and that the result of any act cannot be considered in the determination of the question of whether there is an accident.⁶ The Court indicated that other Courts which have adopted the accidental result test have erroneously based their holding on a partial quotation from the rule laid down in *United States Mutual Acc. Assn. v. Barry*,⁷ and rejected such decisions as not conforming to the weight of opinion. Finally, it rejected the "proximate cause" test as having no application in ascertaining liability under policy provisions of this type, and held that the beneficiary may not recover unless able to show that the death was caused solely by accidental means.

The New York Court of Appeals reached an opposite result in the case of a coronary death following over-exertion, although under more dramatic circumstances.⁸

The insured's automobile was forced off the road into a ditch after being struck by a truck during a snowstorm. After trudging through the snow to a nearby farmhouse to obtain a shovel, the insured returned to his car and complained that the wind had knocked him out. After sitting in the car for about 20 minutes, he left it and began to shovel the snow away. His wife opened the door of the car and saw him hit himself or slip or fall against the shovel or against the rear of the car. She jumped out and helped him into the car where he sat down for a moment and died. The trial court charged the jury that if they found that death was the result of over-exposure or over-exertion or by slipping and falling against the shovel and the car,

⁶*Evans v. Metropolitan Life Ins. Co.*, — Wash. —, 174 P. 2d 961 (1947).

⁷131 U. S. 100, 9 Sup. Ct. 755 (1889).

⁸*Burr v. Commercial Travelers Mut. Acc. Assn.*, 295 N. Y. 294, 67 N. E. 2d 248 (1946).

or by a combination of these, and if they further found that the insured could not have been reasonably expected to anticipate such results from his action, then they might find that the essential accidental means existed.

The court accepted this charge as correct, pointing out that New York *no longer* recognizes any distinction between accidental death and death by accidental means, nor between accidental means and accidental result. It concerned itself somewhat with the question of whether any over-exertion might provide the basis for a claim of accidental death. It indicated that this would not be so, citing earlier New York cases in which recovery was denied where the act of over-exertion was a natural and customary act of a householder or a workman. It expressed the view that the trial court's use of the word over-exertion in its charge must have been understood by the court and jury not in the conventional sense but rather in the light of the fact that the chain of causation in the case at bar was set in motion beginning with the automobile accident in the course of driving during a heavy snowstorm, followed by an emergency resulting from being stalled in the snow at a time when it was necessary for the insured to take the action he did to protect his family. So far as concerned the question of contributory disease, the court held that this presented a question of fact for the jury in the light of the conflict between plaintiff's evidence of prior good health of the insured and autopsy findings regarding the heart and arteries. It referred to the fact that there was opinion evidence that these findings did not portray and could not correctly have portrayed the actual condition of the coronary arteries of the insured when he was alive on the day he died.

A third factual situation involving a combination of existing disease and so-called accident is found in cases where a death follows a major surgical operation necessitated by existing disease. In a case arising under a policy of accident insurance,⁹ the Circuit Court of Appeals of the Tenth Circuit held that such a death was not the result of bodily injury effected solely through accidental means. The insured, age 62, submitted to an operation necessitated by chronic infection of the gall bladder. Twenty-four hours after the operation he died of a pulmonary collapse. The evidence established that a pulmonary collapse is not to be expected as a natural and probable consequence of an operation but that it does occur sometimes following a major abdominal operation. The court held that even under the New York rule (not recognizing the distinction between accidental means and accidental result) which was applicable to the contract before it, there could be no recovery of the accidental death benefit in a case such as this.

⁹Preferred Acc. Ins. Co. v. Clark, 144 F. 2d 165 (C. C. A. 10th 1944).

It relied on a decision of a New York intermediate appellate court¹⁰ as supporting the view that, despite the general holding of the New York courts that accidental result and accidental means are synonymous, they make a distinction between an unforeseen and unexpected result arising from a trivial cause and a post-operative death in which, although the eventuality of the death may be rare, it is recognized as possible and the cause is not trivial. The court concluded that, where, as here, the 62-year old insured was suffering from a chronic gall bladder ailment, his appendix was seriously involved and he was also suffering from degeneration of the liver and kidneys, thereby necessitating a major operation in the upper abdomen which caused a pulmonary collapse, the ordinary man would not regard the death as accidental.

Opposed to the view of the case is that of the Utah Supreme Court in a case involving death from a pulmonary embolism following an operation.¹¹ It was conceded that there was no slip or mishap in the course of the operation. However, the court upheld recovery under the Utah rule that the coverage extended to cases where the death was an unexpected result of an intended act.

Determination of the effect of the "visible contusion or wound" limitation in the double indemnity provision shows a similar divergence of opinion among courts.

In one case the insured was travelling hand over hand suspended from a wire stretched between two masts of a pleasure yacht.¹² Reaching for the wire with one hand he lost his grip so that his body swung around and he held on by the other hand. He then returned to the mast and remained there a few minutes, after which he descended to the deck. From that time until his death (three weeks later) he complained intermittently of pains in the chest, on exertion he perspired freely, his face became pale, and his lips were sometimes blue. His death was attributed to coronary thrombosis.

Although, assuming as correct the beneficiary's contention that the happenings on the yacht accidentally caused the coronary thrombosis, the Circuit Court of Appeals of the Ninth Circuit, reversed a judgment in her favor on the ground of an absence of proof that the accidental injury was evidenced by a visible contusion or wound on the exterior of the body. The court said there was no evidence of any wound. In holding that the pallor or blueness

¹⁰*Bennet v. Equitable Life Ins. Co.*, 13 N. Y. S. 2d 540 (Sup. Ct. 1939), *aff'd*, 261 App. Div. 819, 25 N. Y. S. 2d (1st Dep't 1941).

¹¹*Handley v. Mutual Life Ins. Co.*, 106 Utah 184, 147 P. 2d 319 (1944).

¹²*Mass. Mut. Life Ins. Co. v. Pistolesi*, 160 F. 2d 668 (C. C. A. 9th 1947), *cert.* —, — U. S. —, — Sup. Ct. — (194—).

of the lips did not constitute a contusion, the court pointed out that the California Civil Code provides that the words of the contract are to be understood in their ordinary and popular sense, and that insurance policies are so construed. It accepted the dictionary definition of a contusion as a "bruise and injury attended with a more or less disorganization of the subcutaneous tissue and effusion of blood beneath the skin without breaking the skin". It concluded that this definition corresponded to the uncontradicted medical testimony in the case.

The preceding case cited with approval an earlier federal court decision involving a sunstroke death under a policy requiring that the accidental injury be evidenced by a visible contusion or wound.¹³ In the earlier case, in holding that pallor, perspiration, dilated pupils, or bluish tint to the skin could not be regarded as either wounds or contusions, the court referred to the commonly accepted meaning of the policy language and stated that where language is clear and unambiguous and has a well-defined meaning, the presumption must be that the parties used such words in their ordinary and well-understood meaning, concluding:

"Courts are not justified in adopting strange or technical or unnatural definitions of words in order to swing the pendulum one way or the other."¹⁴

The pendulum was swung the other way in a Texas case.¹⁵ Here, also, the insured's death was due to sunstroke. The double indemnity provision required that the accidental injury be evidenced by a visible contusion or wound on the exterior of the body. The court conceded that what it called "technically speaking", a contusion is a bruise or damage which does not break the skin and a wound involves a breaking of the skin. However, in the light of various Texas decisions holding that heatstroke may be an accidental death, the court held that the words "contusion or wound" as applied to a heatstroke case must mean the kind of external evidence that would be produced by a heatstroke, rather than a bruise or open wound. It might be noted that in the preceding case, which reached an opposite result, the federal court was likewise faced with the fact that under the law of the State of the contract, sunstroke is regarded as an accident effected solely through external, violent, and accidental means, but took the position that it had to face the further and separate question of whether such accident

¹³Paul Revere Life Ins. Co. v. Stanfield, 151 F. 2d 776 (C. C. A. 10th 1945), cert. denied, 327 U. S. 795, 66 Sup. Ct. 825 (1946).

¹⁴*Id.* at 177.

¹⁵American Nat. Ins. Co. v. Fox, 184 S. W. 2d 937 (Tex. Civ. App. 1944).

was within the coverage of the policy language requiring that the injury be evidenced by a visible contusion or wound.

It may fairly be said that these cases illustrate a tendency on the part of some courts to reach an unrealistic and extreme conclusion as to the effect of the accidental death benefit provision on rather tenuous legal grounds, thereby extending the coverage beyond that contractually provided. Other courts, as indicated, have taken an opposing view.

The first tendency is exemplified by those cases permitting recovery on the basis of a presumption of accidental means where there is proof only that the injuries followed an apparent accident of some kind, despite evidence of preexisting disease which in all human probability was a cause or substantially contributed to the fatal injuries. The question of whether such a presumption should be applied under these circumstances was squarely presented to the Oregon Supreme Court on a motion for reargument of the case previously referred to where recovery had been denied under such circumstances.¹⁶ Rejecting the contention that there was a presumption that the means of death were accidental, the court indicated that the so-called presumption resulted from a misapplication of the presumption against suicide. The court said that if there is such a presumption it could be properly applicable only in cases where the issue was whether the injuries were accidental or self-inflicted but that it was inapplicable where the issue was whether a fall was caused by accident or preexisting disease. Assuming, without deciding, that there might be a case in which evidence of death from external violence without more might permit an inference that the fatal injury was the result of accidental means, the court stated that such was not the case where evidence indicated probability of a fall caused by mental or physical impairments.

Permitting recovery of the accidental death benefit where over-exertion causes a coronary death is another example of an extreme interpretation of the policy provisions and an extension of the coverage. A realistic appraisal might lead one to question whether a man who is not suffering from existing heart disease could ever sustain a fatal coronary attack through over-exertion. However, this is usually a question of fact for the jury. So far as concerns the applicable rules of law, it is interesting to note that the New York Court of Appeals found no error in a trial court's charge that if the jury found that the insured died as a result of over-exertion, they might find that the essential accidental means existed. It is important to

¹⁶*Seater v. Penn Mut. Life Ins. Co.*, 176 Ore. 542, 156 P. 2d 386 (1945), *rehearing*, 176 Ore. 542, 159 P. 2d 826 (1945).

note, however, that in approving this charge the Court of Appeals attempted to limit the effect of its decision to cases in which the "over-exertion" occurred in the course of accidental occurrences. The court apparently reaffirmed its earlier holdings that the "conventional" over-exertion death (*e.g.*, in the course of an act which was the natural and customary act of a householder in or about his house, or of a workman within the scope of his duties) would not be the result of accidental means.

Whether the limiting language of the court will in the future be sufficient to prevent expansion of the "over-exertion" rule and an opening of the door to numerous claims for double indemnity in which a person with serious heart trouble happens to have exerted himself shortly before the fatal incident, is problematical. In a subsequent lower court New York case¹⁷ involving a claim for disability benefits under an accident policy, it was held that the act of sandpapering the panel of a bathroom was not a natural and customary act of the insured in and about his house and that the resulting coronary insufficiency was sustained through accidental means, *i.e.*, by expenditure of unusual exertion in the course of other than a natural and customary act resulting in an unforeseeable and not natural or probable consequence. This decision appears to have applied the language, but not the spirit or intent of the Court of Appeals' opinion in the *Burr* case.

A third example of an unrealistic extension of the coverage is seen in those cases where death followed a major operation which was performed without slip or mishap and which was occasioned by existing disease. In permitting recovery for a post-operative death, the Chief Justice of the Utah Supreme Court writing for the majority of the court used these thought-provoking words:

" . . . the words of the provision under discussion when accurately read can mean only that the accident—external and violent—must precede and produce the injury which must in turn precede and produce death. In spite of this plain, clear meaning of the words, courts manned by able and understanding judges, have construed the passage to cover situations where the means or cause was not accidental although violent and external and the results were accidental in the sense that they were not contemplated or expected. . . . It is to be granted that a contract in case of ambiguity must be construed against the party who drew it and especially is this so in the case of contracts which are sold widely to the average man under sales talk which cannot be too technical in its expositions and yet which very easily lull him into a belief that he has purchased certain benefits which on closer scrutiny of the contract are

¹⁷Joseph v. Fidelity & Casualty Co., American Life Convention Legal Bulletin, Feb., 1947, p. 39.

asserted not to be included. But the writer has some doubt as to whether the construction or provisions like the one under discussion have not been liberalized beyond the point justified by a supposed ambiguity or by the principle that the burden is on the draftsman of the contract. The phrases seem to be accurately expressed."¹⁸

In concluding its opinion, the court stated that it had been urged that upholding recovery in such cases opens up the question whether any and every unexpected result of technically correct operation is not an accident and commented "perhaps so".

Other doubts have been expressed regarding extreme interpretations which some Courts have placed on the policy provisions. In an article in the Rocky Mountain Law Review of December 1946 regarding the manner in which Courts have interpreted the gas exclusion, the author states:

"It seems that the desire of the courts to construe the wording of an insurance policy most strongly against the insurer has been carried to an illogical extreme, and that future decisions would do well to take the words of an insurance policy at their face value as do the parties themselves."¹⁹

In a recent case, the Circuit Court of Appeals for the Fifth Circuit, referring to the words in the double indemnity provision which required that bodily injury be effected solely through external, violent and accidental means and that it not result directly or indirectly from bodily or mental infirmity or disease of any sort, said:

"These words cannot be thrown away. They limit the coverage of the insurance. A court can no more extend the coverage than it can increase the amount of the insurance. Deliberately to do either would be a sort of judicial larceny."²⁰

In a recent case involving a claim for disability benefits, the Supreme Court of the State of Washington said:

"The importance of the matter far transcends the instant case; for it has long been settled by both statute and case law that the insurance business is affected with a public interest. The payment of unjust claims by an insurance company is a detriment to the public whether made by mutual companies or stock companies; for, in the long run, the amount of losses which insurance companies are compelled to pay must determine the premium rates which the public must pay for insurance protection."²¹

¹⁸Handley v. Mutual Life Ins. Co., 106 Utah 184, —, 147 P. 2d 319, — (1944).

¹⁹Goodwin, *The Exception in Insurance Policies of "Inhaling Gas"*, 19 Rocky Mt. L. Rev. 84, 86 (1946).

²⁰Mutual Life Ins. Co. v. Hess, 161 F. 2d 1, 4 (C. C. A. 5th 1947).

²¹Kuhnle v. Mutual Life Ins. Co. of New York, 20 Wash. 2d 255, 260, 147 P. 2d 281, 284 (1944).

This quotation aptly emphasizes the social nature of insurance and is equally applicable to any extension of the coverage by judicial fiat. The consequences of an unreasonable extension of the disability benefit coverage by judicial interpretation are of too recent memory for anyone to contemplate with complacency the possibility that at some future date unrealistic and unreasonable application of the terms of the double indemnity provision (resulting in the payment of losses beyond those provided for) may deprive the insuring public as a whole of this most desirable supplement to the principal coverage of their life insurance. The question naturally arises—can any language be devised to define the coverage that will not yield to the persistent erosion of the Courts?

In any event, it seems appropriate that counsel representing a defendant insurer in litigation involving an attempt to fasten an unrealistic interpretation on the double indemnity coverage, in addition to pointing out the legal weaknesses of the contention advanced, should also emphasize to the Court that "the importance of the matter far transcends the instant case" and that permitting a litigating claimant to establish an unwarranted liability by a tortured construction of the policy provisions is an ultimate detriment to the insuring public as a whole. Counsel for beneficiaries must at least wrestle with their social consciences in some of the cases with which they may be presented. In the final analysis the answer rests with the bench which must settle the conflicting claims of the individual litigant and the great body of policyholders who must assume the ultimate cost, and who, it should always be remembered, are also entitled to the protection of the courts.

APPENDIX: DOUBLE INDEMNITY CASES

Alabama:

White v. New York Life Ins. Co., 145 F. 2d 504, 10 CCH LIFE CASES 274 (C. C. A. 5th 1944).

Arizona:

Greber v. New York Life Ins. Co., 61 Ariz. 341, 149 P. 2d 671, 9 CCH LIFE CASES 1095 (1944).

Arkansas:

Union Central Life Ins. Co. v. Sims, 208 Ark. 1069, 189 S. W. 2d 193, 10 CCH LIFE CASES 1065 (1945).

California:

Massachusetts Mut. Life Ins. Co. v. Pistolesi, 160 F. 2d 668, 12 CCH LIFE CASES 389 (C. C. A. 9th 1947); *Glaeser v. Prudential Ins. Co.*, 57 F. Supp. 198, 10 CCH LIFE CASES 172 (N. D. Cal. 1944); *Rooney v. Mutual Benefit Health & Acc. Assn.*, 74 Cal. App. 2d 885, 170 P. 2d 72, 11 CCH LIFE CASES 946 (1946); *Christen v. New York Life Ins. Co.*, 10 CCH LIFE CASES 991 (Cal. Super. Ct. 1945).

District of Columbia:

Railway Mail Assn. v. Stauffer, 152 F. 2d 146, 11 CCH LIFE CASES 287 (App. D. C., 1945).

Florida:

Mutual Life Ins. Co. v. Hess, 161 F. 2d 1, 12 CCH LIFE CASES 477 (C. C. A. 5th 1947); Metropolitan Life Ins. Co. v. Jenkins, 153 Fla. 53, 13 So. 2d 610, 8 CCH LIFE CASES 417 (1943).

Georgia:

McLendon v. Carolina Life Ins. Co., 71 Ga. App. 557, 31 S. E. 2d 429, 10 CCH LIFE CASES 145 (1944).

Idaho:

O'Neil v. New York Life Ins. Co., 65 Idaho 722, 152 P. 2d 707, 10 CCH LIFE CASES 238 (1944).

Illinois:

Contois v. State Mut. Life Assur. Co., 156 F. 2d 44, 11 CCH LIFE CASES 729 (C. C. A. 7th 1946); Powell Bros., Inc. v. Pennsylvania Mut. Life Ins. Co. of Philadelphia, 318 Ill. App. 643, 48 N. E. 2d 206, 8 CCH LIFE CASES 752 (1943); Teutrine v. Prudential Ins. Co., 331 Ill. App. 107, 72 N. E. 2d 444, 12 CCH LIFE CASES 461 (1947).

Indiana:

Prudential Ins. Co. v. Van Wey, 223 Ind. 198, 59 N. E. 2d 721, 10 CCH LIFE CASES 730 (1945).

Kansas:

Preferred Accident Ins. Co. v. Clark, 144 F. 2d 165, 10 CCH LIFE CASES 61 (C. C. A. 10th 1944).

Kentucky:

Mutual Benefit Health & Acc. Ass'n v. Webber, 299 Ky. 846, 187 S. W. 2d 273, 10 CCH LIFE CASES 652 (1945).

Louisiana:

Toups v. Pennsylvania Mut. Life Ins. Co., 49 F. Supp. 348, 8 CCH LIFE CASES 973 (E. D. La., 1943); Lipscomb v. Equitable Life, 205 La. 738, 18 So. 2d 167, CCH LIFE CASES 898 (1944); Siracusa v. Prudential Ins. Co., 12 CCH LIFE CASES 572 (La. Sup. Ct. May 26, 1946).

Maryland:

Levinson v. Reliance Ins. Co., 41 A. 2d 485, 10 CCH LIFE CASES 767 (Md. Ct. App., 1945); John Hancock Mut. Life Ins. Co. v. Plummer, 28 A. 2d 856, 7 CCH LIFE CASES 1107 (Md. Ct. App., 1942).

Massachusetts:

McHugh v. New England Mutual Life Ins. Co., 317 Mass. 498, 58 N. E. 2d 843, 10 CCH LIFE CASES 484 (1945); Howe v. National Life Ins. Co., — Mass. —, 72 N. E. 2d 425, 12 CCH LIFE CASES 484 (1947).

Michigan:

Ruona v. New York Life Ins. Co., 68 F. Supp. 923, 12 CCH LIFE CASES 172 (W. D. Mich. 1946); Koycheff v. Mutual Benefit Health & Acc. Assn., 305 Mich. 660, 9 N. W. 2d 883, 8 CCH LIFE CASES 841 (1943); McKenna v. New York Life Ins. Co., 314 Mich. 304, 22 N. W. 2d 376, 11 CCH LIFE CASES 587 (1946); Hooper v. State Mut. Life Assur. Co., — Mich. —, 28 N. W. 2d 331, 12 CCH LIFE CASES 685 (1947).

Minnesota:

Kundiger v. Metropolitan Life Ins. Co., 218 Minn. 273, 15 N. W. 2d 487, 10 CCH LIFE CASES 82 (1944); Kundiger v. Prudential Ins. Co., 219 Minn. 25, 17 N. W. 2d 49, 10 CCH LIFE CASES 422 (1944).

Mississippi:

Equitable Life Assur. Soc. v. Mitchell, — Miss. —, 29 So. 2d 88, 12 CCH LIFE CASES 305 (1947); Lamar Life Ins. Co. v. Bounds, 25 So. 2d 707, 11 CCH LIFE CASES 792 (Miss. Sup. Ct. 1946).

Missouri:

Aubuchon v. Metropolitan Life Ins. Co., 142 F. 2d 20, 9 CCH LIFE CASES 875 (C. C. A. 8th 1944); Feldmann v. Connecticut Mut. Life, 142 F. 2d 628, 9 CCH LIFE CASES 834 (C. C. A. 8th 1944); Beimdiek v. New York Life Ins. Co., — Mo. App. —, 183 S. W. 2d 379, 10 CCH LIFE CASES 311 (1944).

Nebraska:

Rapp v. Metropolitan Acc. & Health Ins. Co., 143 Neb. 144, 8 N. W. 2d 692, 8 CCH

LIFE CASES 931 (1943); Long v. Railway Mail Ass'n, 145 Neb. 623, 17 N. W. 2d 675, 10 CCH LIFE CASES 683 (1945).

New Jersey:

DeFreitas v. Metropolitan Life Ins. Co., 131 N. J. L. 5, 34 A. 2d 233, 9 CCH LIFE CASES 144 (Sup. Ct. 1943); McNamara v. Metropolitan Life Ins. Co., 134 N. J. L. 231, 46 A. 2d 798, 11 CCH LIFE CASES 811 (Ct. Err. & App. 1946).

New York:

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