

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1249

LOUISE HUNTER, individually and as a
representative of the class of persons
described below; ANNIE GRIFFIN; IRENE DAVIS;
LENNIE MARTIN; GLADYS ROBINSON, Power of
Attorney for Lennie Martin; EDITH MACK; LORENE
MACK; ALEXANDER MACK,

Plaintiffs - Appellants,

versus

AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE
COMPANY; INDEPENDENT LIFE AND ACCIDENT
INSURANCE COMPANY,

Defendants - Appellees.

AMERICAN COUNCIL OF LIFE INSURERS,

Amicus Supporting Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. Cameron McGowan Currie, District
Judge. (CA-01-5000-3-22; CA-01-4506-3; CA-02-1483-3)

Submitted: August 30, 2006

Decided: November 13, 2006

Before MICHAEL, KING, and DUNCAN, Circuit Judges.

Affirmed and remanded by unpublished per curiam opinion.

T. English McCutchen, III, William E. Hopkins, Jr., MCCUTCHEN, BLANTON, JOHNSON & BARNETTE, L.L.P., Columbia, South Carolina; Brian K. McDuffie, HARRIS, GUIDI, ROSNER, DUNLAP, RUDOLPH, CATLIN & BETHEA, P.A., Jacksonville, Florida; Joseph P. Strom, Jr., Mario A. Pacella, STROM LAW FIRM, L.L.C., Columbia, South Carolina; Mark A. Cullen, CULLEN LAW FIRM, P.A., West Palm Beach, Florida, for Appellants. Lee E. Bains, Jr., Jeffrey M. Grantham, Stephen C. Jackson, Michael D. Mulvaney, MAYNARD, COOPER & GALE, P.C., Birmingham, Alabama; William C. Hubbard, C. Mitchell Brown, D. Larry Kristinik, NELSON, MULLINS, RILEY & SCARBOROUGH, L.L.P., Columbia, South Carolina, for Appellees. Victoria E. Fimea, AMERICAN COUNCIL OF LIFE INSURERS, Washington, D.C.; Evan M. Tager, Craig W. Canetti, MAYER, BROWN, ROWE & MAW, L.L.P., Washington, D.C., for Amicus Supporting Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellants are members of a proposed class of individuals who possessed ownership interests in industrial life insurance policies allegedly issued by defendants on a racially discriminatory basis. The district court denied their motion for class certification, concluding that, because defendants' statute-of-limitations defense could not be resolved on a class-wide basis, issues common to the class did not predominate over individual ones. Appellants appealed the denial of certification, and we placed the case in abeyance pending resolution of Thorn v. Jefferson-Pilot Life Ins. Co., 445 F.3d 311 (4th Cir. 2006). The opinion in Thorn has now issued, holding on facts materially indistinguishable from those presented here, that the district court did not abuse its discretion in denying certification where the defendant's statute-of-limitations defense could not, for reasons identical to those relied upon by the district court here, be resolved on a class-wide basis. Because this case is controlled by Thorn, and for the reasons stated therein, we grant the motion for summary affirmance, grant the motion to submit the appeal on the briefs, affirm the judgment of the district court, and remand for further proceedings on appellants' individual claims. We dispense with oral argument because the facts and legal contentions

are adequately presented in the materials before the court and argument would not aid the decisional process.*

AFFIRMED AND REMANDED

*In light of this disposition, we deny as moot the pending motions to expedite this appeal and to continue the previously scheduled oral argument date.