

No. 14-0100 – *State of West Virginia ex. rel., John Perdue, Treasurer v. Nationwide Life Insurance Co.*

**FILED**

June 16, 2015

RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

Justice Ketchum, concurring:

I agree that life insurance companies must take affirmative steps to locate and pay beneficiaries of life insurance policies and pay abandoned life insurance proceeds to the unclaimed property fund. I would have, however, gone further and required the life insurance companies to regularly search for deceased insured's by using the Social Security Administration Death Master File. (DMF).

It is estimated that there is over one billion dollars in death benefits held by insurance companies that are unclaimed by the beneficiaries of deceased policy holders.<sup>1</sup> The insurance companies hold onto the policy proceeds without attempting to use technology to determine if the insured has died and track down beneficiaries.

Insurance companies regularly search the DMF to determine if an annuitant has died allowing it to terminate annuity payments. Conversely, most have not used the DMF to determine if a life insured has died resulting in the payment of life insurance benefits. Life insurance companies have used the DMF when it is to their benefit and ignored the DMF when it may cause them to pay money.

I would require the insurance companies to use the DMF. They should be required to use this publicly available information to determine if their insured has died.

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<sup>1</sup>Devin Hartley, *A Billion Dollar Problem: The insurance industry's widespread failure to escheat unclaimed death benefits to the states*, 19 Conn. Ins. L.J. 363 (2012-2013).

Ignoring the DMF enriches the life insurance industry to the detriment of their policyholder's beneficiaries and allows them to keep money that should be paid to the unclaimed property fund.