



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

TERESA B. YATES, individually and as  
Personal Representative of the Estate of  
Gerald W. Yates,  
Plaintiff

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vs.

CIVIL ACTION NO. 4:19-372-MGL

METROPOLITAN LIFE INSURANCE  
COMPANY and JANE A. YATES,  
Defendants.

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**ORDER CERTIFYING QUESTION TO THE SOUTH CAROLINA SUPREME COURT**

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**I. INTRODUCTION**

This is an insurance coverage case. The dispute centers around whether Decedent Gerald W. Yates's (Decedent) first wife, Defendant Jane A. Yates (Jane Yates), or his second wife, Plaintiff Teresa B. Yates (Teresa Yates), is the rightful beneficiary of his individual life insurance policy (the policy). Defendant Metropolitan Life Insurance Company (Met Life) issued the policy.

A proper interpretation of S.C. Code Ann. § 62-2-507 (the revocation statute) is necessary in deciding this question. The pertinent portion of the revocation statute provides as follows:

(c) Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(1) revokes any revocable:

(I) disposition or appointment of property or beneficiary designation made by a divorced individual to the divorced individual's former spouse in a governing instrument;

S.C. Code Ann. § 62-2-507(c)(1)(I).

## II. LEGAL STANDARD

Rule 244(a) of the South Carolina Appellate Court Rules states

[t]he [South Carolina] Supreme Court in its discretion may answer questions of law certified to it by any federal court of the United States or the highest appellate court or an intermediate appellate court of any other state, when requested by the certifying court if there are involved in any proceeding before that court questions of law of this state which may be determinative of the cause then pending in the certifying court when it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court.

S.C. App. Ct. R. 244(a). The certification order must set forth: (1) “a statement showing fully the nature of the controversy in which the questions arose,” (2) “all findings of fact relevant to the questions certified,” and (3) “the questions of law to be answered[.]” S.C. App. Ct. R. 244(b). It is appropriate for the Court to certify a question to the South Carolina Supreme Court only when “the available state law is clearly insufficient[.]” *See Roe v. Doe*, 28 F.3d 404, 407 (4th Cir. 1994). As detailed below, that is the exact situation the Court is presented with here.

## II. NATURE OF THE CONTROVERSY

Teresa Yates filed a complaint against Met Life and Jane Yates in the South Carolina Court of Common Pleas, Florence County, in her individual capacity and as the personal representative of

Decedent's estate. She seeks to recover life insurance benefits under the policy. Met Life, with the consent of Jane Yates, then removed the lawsuit to this Court in accordance with 28 U.S.C. §§ 1332 and 1441.

Thereafter, Met Life filed a motion to dismiss the complaint for failure to state a claim, and Teresa Yates filed a motion to remand. Because Decedent and Jane Yates divorced before January 1, 2014, the effective date of the statute, Met Life contends the revocation statute is inapplicable. Teresa Yates, however, argues it applies and revokes Jane Yates's beneficiary designation.

The Court issued an order on July 10, 2019 (the Order), dismissing without prejudice Met Life's motion to dismiss and Teresa Yates's motion to remand. It indicated in the Order it would certify a question to the South Carolina Supreme Court concerning the proper application of the effective date of the revocation statute.

### **III. RELEVANT FINDINGS OF FACT**

The relevant facts related to the question certified to the South Carolina Supreme Court are:

1. Decedent married Jane Yates on or about April 18, 1992.
2. During Decedent's marriage to Jane Yates, he acquired the policy from Met Life, bearing policy number 932700616PR.
3. Decedent listed Jane Yates as the beneficiary of the policy.
4. Decedent named Dora Sewell, Decedent's then-mother-in-law, as the contingent beneficiary of the policy.
5. Decedent and Jane Yates divorced on or about July 8, 2013.
6. Thereafter, Decedent married Teresa Yates.

7. On or about October 16, 2016, Decedent died testate, devising all his property to Teresa Yates.
8. Teresa Yates submitted a life insurance claim form to Met Life on or about October 28, 2016, to collect as the designated beneficiary under the policy.
9. Met Life advised Teresa Yates that Jane Yates was the designated beneficiary on the policy.
10. Met Life subsequently paid out the proceeds of the policy to Jane Yates as the designated beneficiary in February of 2017.

#### IV. CERTIFIED QUESTION OF LAW

In the Order, this Court concluded the federal courts in the District of South Carolina have inconsistently applied the effective date of the revocation statute. It also noted neither the Court nor the parties have found any controlling precedent in the decisions of the South Carolina Supreme Court on the issue.

One district court held the revocation statute is inapplicable when the divorce occurred before the effective date of the revocation statute. *State Farm Life Ins. Co. v. Murphy*, No. 2:15-cv-04793-DCN, 2017 WL 4551489, at \*3-4 (D.S.C. Oct. 12, 2017). Another district court, however, looked to the date the decedent died, not when the divorce occurred, to determine whether the revocation statute applied. *Protective Life Ins. Co. v. LeClaire*, No. 7:17-cv-00628-AMQ, 2018 WL 3222796, at \*4 (D.S.C. July 2, 2018).

If the Court were to adopt the reasoning in *Murphy*, the revocation statute would be inapplicable. But, if it determined the rationale in *LeClaire* to be more convincing, the revocation

statute would apply. Instead of choosing which of these two opinions it should follow, however, the Court thinks it best to turn to the South Carolina Supreme Court for guidance.

Accordingly, the Court respectfully requests the South Carolina Court address the following certified question:

Is S.C. Code Ann. § 62-2-507 to be applied so that a divorce occurring prior to the revocation statute's effective date of January 1, 2014, revokes any beneficiary designation made prior to the divorce by the divorced individual to the divorced individual's former spouse?

**V. CONCLUSION**

In light of the legal uncertainty of the proper application of the revocation statute, the Court **CERTIFIES** the question above to the South Carolina Supreme Court. The Clerk shall forward a copy of this order to the South Carolina Supreme Court under this Court's official seal, together with copies of any portions of the record requested by the South Carolina Supreme Court.

**IT IS SO ORDERED.**

Signed this 29th day of July, 2019, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE



A TRUE COPY  
ATTEST: ROBIN L. BLUME, CLERK

BY:   
DEPUTY CLERK