

Susman Godfrey L.L.P. Wins Reversal in \$20 Million Life Settlement Rescission Lawsuit

The California Court of Appeals recently rejected as a matter of law an insurance company's attempt to rescind \$20 million worth of life insurance coverage, holding that two insurance policies issued by the Lincoln Life & Annuity Company of New York were supported by an insurable interest at their inception. The trial litigation firm Susman Godfrey L.L.P. represents the victorious policy owner. Lincoln's lawsuit was based on allegations that the insurance policies lacked an insurable interest because they were procured by third-parties for investment purposes and because there were net worth and other misrepresentations in the applications.

The owner of the policies vigorously defended the legitimacy of the arrangement — so-called “stranger originated life insurance” or “STOLI” — and the structure of the transaction that led to the issuance of the policies, arguing that because the insured was the settlor of the trust, which acquired and owned the policies, the trust had an insurable interest in the insured's life. The appellate court agreed, and ordered that the trial court enter judgment in favor of the trust. The appellate court also affirmed the trust's trial court victory that Lincoln's fraud claim was time barred because the policies were incontestable.

Steven Sklaver and Ryan Kirkpatrick, attorneys in Susman Godfrey's Los Angeles office, represent the trust that owns the \$20 million asset. “Lincoln tried to void the insurance policies on the grounds of a supposed lack of insurable interest, attempting to pierce through the corporate formalities of the transaction that resulted in the issuance of the policies, all of which complied with the letter of insurable interest law. The Court of Appeal's detailed and well-reasoned decision is a clear rejection of the carrier's attempt to void the policies,” Mr. Sklaver said. Susman Godfrey is a 90-lawyer litigation boutique with offices nationwide, and represents numerous trusts, investors, and brokers in life settlement litigation across the country.

The case is Lincoln Life & Annuity Co. of New York v. Jonathan Berck, as Trustee of the Jack Teren Insurance Trust, Court of Appeal Case No. D056373 (Cal. Ct. App. May 17, 2011). A copy of the appellate decision is available at [California Courts](#).