

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 11-10158

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MARCH 6, 2012 JOHN LEY CLERK
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D. C. Docket No. 1:08-cv-22664-JEM

FEDERAL TRADE COMMISSION,

Intervenor-Appellee,

versus

DAMIAN SHOMERS, etc., et al.,

Defendant-Cross Defendant-
Cross Claimant,

MIRIAM SOFIA ANDREONI,

Defendant-Cross Defendant-
Cross Claimant-Appellant,

NADIA SMOLYANSKI,
Co-Trustee of the Anthony Andreoni Irrevocable Trust,
PETER SMOLYANSKI,
Co-Trustee of the Anthony Andreoni Irrevocable Trust,

Defendants-Cross Claimants-
Cross Defendants-Appellants.

No. 11-10495

D.C. Docket No. 1:08-cv-22664-JEM

FEDERAL TRADE COMMISSION,

Intervenor-Appellee,

DAMIAN SHOMERS,
a.k.a. David Shomers,
MIRIAM SOFIA ANDREONI, et al.,

Defendant-Cross Defendants-
Cross-Claimants,

BRUCE E. WARNER,
as personal representative of the
Estate of Damian Shomers,

Defendant-Cross Claimant
Cross Defendant-Appellant,

DSG HOLDING CO., INC.,

Cross Claimant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida

(March 6, 2012)

Before DUBINA, Chief Judge, FAY, and KLEINFELD,* Circuit Judges.

PER CURIAM:

These cases stem from an interpleader action brought by Reassure America Life Insurance Company (“Reassure”) to determine the proper beneficiary of a \$2 million life insurance policy. The Federal Trade Commission (“FTC”) moved to intervene in the action to protect its ability to recover on a then potential and now final judgment against Miriam Sofia Andreoni (“Miriam”), the wife of the deceased whose life was insured. Upon the entry of a consent decree in that parallel litigation in which Miriam assigned the FTC her rights as beneficiary to the policy, the FTC was substituted for Miriam as a party in the interpleader lawsuit. The district court then granted the FTC’s motion for summary judgment, finding that Miriam was the true beneficiary to the life insurance policy. Miriam, Nadia Smolyanski, Peter Smolyanski, and Bruce Warner, as executor of David Shomers’s (“Shomers”) estate, appeal the district court’s grant of the FTC’s motion for intervention. Miriam and the Smolyanskis appeal the district court’s grant of the FTC’s motion for summary judgment.

*Honorable Andrew J. Kleinfeld, United States Circuit Judge for the Ninth Circuit, sitting by designation.

After reviewing the record, reading the parties' briefs and having the benefit of oral argument, we affirm.

First, the intervention issue is moot due to the Federal Rule of Civil Procedure 25 (c) substitution of the FTC as a party.

Second, we conclude from the record that the district court properly granted summary judgment.

Miriam was the last valid beneficiary under the policy. The FTC was properly substituted in Miriam's place to satisfy the \$19 million judgment in Case No. 11-10150. The Trust failed to produce any evidence that Shomers ever signed the December 2007 transfer of ownership form nor that he authorized anyone to sign it on his behalf. Without a valid transfer of ownership, the Trust had no right to name itself as beneficiary. Accordingly, we affirm the district court's grant of summary judgment in favor of the FTC.

AFFIRMED.