

Transamerica Imputed Marriage on a Same-Sex Couple to Deny Long Term Care Benefits

NORTHRIDGE, CALIFORNIA, UNITED STATES, December 2, 2022

/EINPresswire.com/ -- [Kantor & Kantor, LLP](#), announces they have filed a lawsuit against Transamerica and Long Term Care Group (LTCG) in the Central District of California. The complaint was filed on May 6, 2022. [Case #2:22-cv-03048-RWSL-E](#)

Transamerica used the Immediate Family Exclusion to deny long term care benefits to an elderly woman because she had been in a same-sex relationship. Virginia Maguire suffers from dementia and was receiving care in her home from the daughter of her partner when Transamerica abruptly denied her benefits.

Transamerica acknowledged that although Virginia and Avonelle were not legally married, a right not recognized until 14 years after Avonelle's death, Virginia and Avonelle were in the "same type" of relationship to that of a "legally" married couple so the exclusion should apply and denied her benefits.

Virginia Maguire and Avonelle Brower were partners for 35 years until Avonelle's death in 2001. Same-sex marriage was not legal during the entire time that Virginia and Avonelle were companions. Same-sex marriage was legalized in California in 2008 and in the United States in 2015.

Virginia Maguire carefully planned for her future and in 2004 purchased a Long Term Care Policy



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(the “Policy”) from Transamerica Life Insurance Company. By 2019 at the age of 81, due to dementia, Virginia was no longer able to tend to her personal care and filed a claim for benefits under the Policy.

Transamerica approved her claim. Shortly thereafter, Transamerica delegated its claims-handling obligations to a third-party administrator, Long Term Care Group (“LTCG”), to process claims, including Virginia’s claim. The Policy allowed Virginia to select her own caregiver, provided the individual is appropriately licensed or certified, limited only by the Exclusion which provides as follows:



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“We will not pay for Home Health Care services provided by an Immediate Family member” and the Policy defines Immediate Family member to mean “[y]our spouse; or Your [sic] or Your spouse’s child, parent, sister, brother or grandchild.”

Virginia’s primary caregiver was Laurel, the daughter of Avonelle. Laurel has been an appropriately licensed caregiver since 2012. As a result, Virginia was able to receive care from someone who loved her in the comfort of her own home. All of this is particularly important as Virginia was receiving care from someone with whom she knew and in an environment with which she was familiar which helps individuals who suffer from dementia.

For approximately the next three years, Laurel was Virginia’s primary caregiver until Transamerica/LTCG denied Virginia’s caregiver benefit recognizing that although Virginia and Avonelle were not “legally married” they were in the “same type” of relationship. Specifically, by letter dated March 15, 2022, Transamerica/LTCG retroactively denied Virginia’s caregiver benefits and stated as follows:

“March 8, 2022, we spoke with Ms. Slothower regarding her relationship to you. She states that she is not your biological daughter, but that you and her mother were in a relationship for 35 years, up to her mother’s death in 2001. While you and her mother were not legally married you were in the same type of relationship. Based on this information and Ms. Slothower’s comments that you are her mother, the Immediate Family exclusion applies, and she is not an eligible caregiver under your policy. We are not seeking reimbursement for the benefits paid for Ms. Slothower’s services, but further benefits will cease effective March 8, 2022.”

In the lawsuit filed by Kantor & Kantor, Virginia alleges that Transamerica and LTCG breached the contract by denying Virginia's caregiver benefit based on the false assertion that Laurel was Virginia's "Immediate Family" which they knew not to be true at the time her claim was denied. Virginia also alleges causes of action for breach of the covenant of good faith and fair dealing and elder abuse.

Virginia also alleges a cause of action for negligence against Long Term Care Group. It should be noted that on the same day that the lawsuit was filed, Transamerica/LTCG conveniently re-approved Laurel as Virginia's caregiver overturning its March 15, 2022, denial, by concocting a basis for this sudden overturn and blaming Virginia and Laurel. Virginia is elderly and in poor and failing health and Transamerica/LTCG owed her a duty to evaluate her claim reasonably before it denied her caregiver benefits.

"What makes this case particularly egregious is that Transamerica and its business partner Long Term Care Group knew that Laurel did not meet the definition of immediate family member as defined by the Policy, but denied Virginia's caregiver benefits anyway," said [Anna Martin](#), partner at Kantor & Kantor. "Virginia and Laurel's mother were companions for 35 years but could not legally marry as this right did not exist for them during their entire relationship. Incredibly, Transamerica and Long Term Care Group denied Virginia's benefits as though this right did exist, which it did not." This lawsuit is pending in the Central District of California.

Document filed 5-6-2022

Amended Complaint filed 8-8-2022

Document 36-1 filed 8-8-2022

Exhibit B

Exhibit C

Exhibit D

About Kantor & Kantor, LLP

Kantor & Kantor, LLP was established in 2004 in Northridge, CA, as a plaintiff-only law firm that represents policyholders on ERISA and insurance bad faith matters. With 6 offices along the west coast, Kantor & Kantor lawyers are nationally recognized for their years of expertise in handling complex appeals and litigation against insurance companies over long term disability, life, long term care, health, property & casualty, and pension benefits.

SOURCE: Kantor & Kantor, LLP

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