



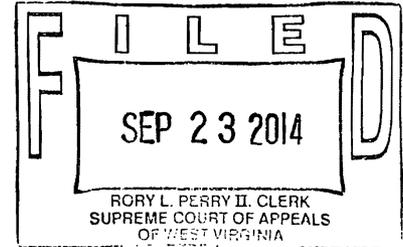
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September 23, 2014

VIA HAND DELIVERY



Rory L. Perry, II, Clerk
WV Supreme Court of Appeals
State Capitol, Room E-317
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: *Perdue v. Nationwide Life Ins. Co.*, No. 14-0100
Notice of Intervening Matters

Dear Mr. Perry:

Since Respondents submitted their briefs to the Court in the above matter, the time for the Florida Department of Financial Services (DFS) to appeal a court ruling relied upon by Respondents in their briefing has elapsed. The DFS's decision not to appeal or move for rehearing renders that decision final.

Pursuant to Rule 10(i) of the West Virginia Rules of Appellate Procedure, 18 Respondents¹ hereby submit this letter informing the Court of this development. Rule 10(i) provides that "[w]henever a party desires to present late authorities, newly enacted legislation, or *other intervening matters that were not available in time to have been included in the party's*

¹ The 18 Respondents submitting this Notice are: New York Life Insurance Company (Circuit Court No. 12-C-293); Lincoln National Life Insurance Company (Circuit Court No. 12-C-296); Erie Family Life Insurance Company (Circuit Court No. 12-C-325); New York Life Insurance and Annuity Corporation (Circuit Court No. 12-C-329); The Western and Southern Life Insurance Company (Circuit Court No. 12-C-331); Western-Southern Life Assurance Company (Circuit Court No. 12-C-355); Primerica Life Insurance Company (Circuit Court No. 12-C-356); Farm Family Life Insurance Company (Circuit Court No. 12-C-359); Employees Life Company (Mutual) (Circuit Court No. 12-C-362); Ohio National Life Assurance Corporation (Circuit Court No. 12-C-372); ReliaStar Life Insurance Company (Circuit Court No. 12-C-381); Physicians Life Insurance Company (Circuit Court No. 12-C-421); Horace Mann Life Insurance Company (Circuit Court No. 12-C-423); Provident Life & Accident Insurance Company (Circuit Court No. 12-C-425); Pacific Life Insurance Company (Circuit Court No. 12-C-429); Colonial Life & Accident Insurance Company (Circuit Court No. 12-C-431); American Family Life Assurance Company of Columbus, GA (Circuit Court No. 12-C-441); and The Lafayette Life Insurance Company (Circuit Court No. 12-C-446).



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brief, the party may briefly inform the Court by letter, with copy provided to opposing parties.” (emphasis added.)

The Joint Brief of the 18 Respondents cited to *Thrivent Fin. for Lutherans v. Fla. Dep’t of Fin. Servs.*, No. 1D13-5299, 2014 WL 3819476 (Fla. Dist. Ct. App. Aug. 5, 2014), in which the Florida First District Court of Appeal reversed the DFS’s administrative interpretation of the 1981 Uniform Unclaimed Property Act, and held that, under that law, there was no statutory duty on the part of life insurers to search the DMF.

In their brief, the 18 Respondents noted that the District Court of Appeals’s decision was not yet final, as the deadline to appeal that ruling had not yet passed as of the date of the brief’s filing. *See* J. Br. of 18 Resp’ts at 8, n.4.

Pursuant to Fla. R. App. P. 9.340(a), the time for rehearing expired on August 20, 2014, and Florida’s DFS did not submit an appeal or motion for rehearing. Thus, the District Court of Appeals’s decision in *Thrivent* is now final.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions.

Very truly yours,


Alexander Macia

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