

THOUGHT LEADERSHIP

News

## CLAIMS FOR “UNFAIR” INSURANCE PRACTICES ARE NOT ASSIGNABLE, EVEN IN CASES OF LIFE AND DEATH

Newsbrief

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A Federal District Court for the Western District of Texas joined several of its sister courts in holding that claims for unfair insurance practices are not assignable. In *Tuyo Holdings, LLC v. Transamerica Life Insurance Company* 2022 WL 17490982 (W.D. Tex., December 6, 2022), Barry Siegal obtained a life insurance policy. He sold the policy rights to a third-party purchaser, then it passed hands several times over the next ten years until it landed in Policy Services' hands, then Tuyo's, when Policy Services went through bankruptcy. In 2020, the policy lapsed for a failure to pay additional premiums. Tuyo filed a declaratory judgment action for wrongful termination of the policy, alleging that Transamerica did not fulfill the Notice requirements of Texas Insurance Code § 541.

Transamerica sought dismissal of the Chapter 541 claim, arguing that Chapter 541 claims are not assignable. The Western District Court agreed, citing precedent from itself as well as cases from the Texas Court of Appeals in Dallas and the Texas federal district courts in the Northern and Eastern Districts of Texas. These lines of cases likened Chapter 541 claims to Deceptive Trade Practices claims, that are for aggrieved consumers, not litigants for personal profit. The court accordingly dismissed Tuyo's Insurance Code cause of action.