

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3407

Summary Calendar

GEORGE EVANS ROBICHAUX and
JOHN CHARLES ROBICHAUX, M.D., ET AL.,

Plaintiffs-Appellants,

versus

JACKSON NATIONAL LIFE INSURANCE
COMPANY,

Defendant-Appellee.

Appeals from the United States District Court
for the Eastern District of Louisiana
(CA 92-290 "H" (6))

(April 5, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

The estate of Gladys Robichaux sued Jackson National Life, alleging that its agent misled Mrs. Robichaux about coverage and that Jackson did not process her application within a reasonable period. The jury found for Jackson Life and we affirm.

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Plaintiffs first contest the jury's finding that Sherri Joslin, the person who took Mrs. Robichaux's application, was not an agent of Jackson Life. This court upholds a jury's verdict unless the facts and inferences point so strongly and so overwhelmingly in favor of one party that reasonable jurors could not arrive at any verdict to the contrary. Western Co. of North America v. United States, 699 F.2d 264, 276 (5th Cir.), cert. denied, 464 U.S. 892 (1983). The record shows that Joslin earned commissions from selling the insurance of many different companies and had no connection with those companies except to submit applications to them. The jury could properly find she was not an agent from these facts. See Motors Ins. Co. v. Bud's Boat Rental, Inc., 917 F.2d 199, 204 (5th Cir. 1990) (distinguishing agents and brokers).

Plaintiffs also contest the jury's finding that Jackson did not take an unreasonably long time to process the policy. Joslin told Mrs. Robichaux that the policy would take from 30-60 days to approve. The company made its decision in 49 days. The jury could properly find from the evidence either that 49 days was a reasonable period, or that any delays in that period were due to Mrs. Robichaux's delay in seeing a doctor or to the delay of her doctor in processing the relevant forms.

A final question is whether the trial judge properly denied a jury instruction stating that ambiguities in a contract are to be construed against the drafter. The application states that no policy issued on the application takes effect unless the first full

premium is paid, the policy is delivered to the owner during the lifetime of the person to be covered by the policy, and the health of all persons to be covered by the policy remains as represented in the application. The interim insurance receipt said it provided \$100,000 in interim coverage until the company formally approves the policy or formally determines to not offer any policy. It also says that neither a salesperson nor a medical examiner has the authority to modify contracts or waive Jackson's rights. These provisions explain the approval process without ambiguity. The judge properly denied the requested instruction. See Gulf Island, IV v. Blue Streak Marine, Inc., 940 F.2d 948, 952-53 (5th Cir. 1991); Pareti v. Sentry Indemnity Co., 536 So. 2d 417, 420 (La. 1988).

AFFIRMED