

United States Court of Appeals  
FOR THE EIGHTH CIRCUIT

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No. 97-1138

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Joan Valentine Mohamed, formerly  
known as Joan Valentine Kerr,

Plaintiff,

UNUM Life Insurance Company, a  
Maine Corporation,

Defendant\Appellee,

v.

Kevin Scott Kerr; Estate of Ivan  
S. Kerr,

Defendants\Appellants.

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\* Appeal from the United States  
\* District Court for the  
\* District of Minnesota.  
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\* [UNPUBLISHED]  
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Submitted: June 9, 1997

Filed: June 13, 1997

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Before MURPHY and HEANEY, Circuit Judges, and BOGUE,<sup>1</sup> District Judge.

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PER CURIAM

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<sup>1</sup>The Honorable Andrew W. Bogue, United States District Judge for the District of South Dakota, sitting by designation.

After Ivan S. Kerr died, his former wife sued to establish her right to proceeds from an insurance policy administered by UNUM Life Insurance Company under the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001, et seq. UNUM removed the case to federal court and filed a motion for judgment in interpleader. UNUM paid the full amount due under the policy into the registry of the district court<sup>2</sup> and was dismissed without prejudice. The estate was ultimately awarded the proceeds but had a problem in collecting the full amount from the party who had originally prevailed. After the estate brought a second action against UNUM to recover the amount of the policy proceeds, UNUM moved under Fed. R. Civ. P. 60(a) for the district court to convert its earlier dismissal to one with prejudice. The district court issued an order dismissing UNUM with prejudice pursuant to Rule 60(b)(6), and the estate appeals. We affirm on the basis of the district court's opinion. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>2</sup>The Honorable Jonathan G. Lebedoff, United States Magistrate Judge for the District of Minnesota sitting by consent of the parties.