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INSURANCE LAW BULLETIN

Re: Court Declares ERISA-Governed Disability Policy Void Based On Intentional Misrepresentations By Insured During Claim

The United States District Court for the District of Maryland recently declared an ERISA-governed disability income policy null and void, and lapsed for non-payment of premium, because the insured intentionally made material misrepresentations in monthly proofs of loss.

Following a heart attack, the insured filed a claim for total disability benefits. Based on the insured's representations that he was unable to perform the duties of his occupation, the insurer paid benefits and waived premiums. Upon learning the insured had resumed his occupational duties (albeit without compensation), the insurer terminated the claim and filed an action seeking cancellation of the policy.

After a two-week bench trial, the court held that equity required that the insurer be relieved of any further obligations under the policy. The court also entered judgment against the insured on his counterclaim for benefits.

For further information, or a copy of the opinion, please contact **Derek B. Yarmis**, who represented the insurer in this matter, at 410-659-7762 or dyarmis@fblaw.com. Please visit our website at www.fblaw.com.

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Applicability of the legal principles discussed may differ substantially in individual situations.
The information contained herein should not be construed as individual legal advice.