MISSOURI COURT OF APPEALS
WESTERN DISTRICT

FINANCIAL CREDIT INVESTMENTS II, TRUST E, Appellant,
v.
ESTATE OF GEORGIA TOWERS, et al., Respondents.

DOCKET NUMBER WD87569

DATE: June 17, 2025

Appeal From:

Jackson County Circuit Court
The Honorable James F. Kanatzar, Judge

Appellate Judges:

Division Three: Edward R. Ardini, P.J., Alok Ahuja and Thomas N. Chapman, JJ.

Attorneys:

Justin J. Johl, Jessica AE McKinney, Kansas City, for Appellant,

Kara E. Cheever, Philadelphia, PA, Maria L. Saber, Chicago, IL, Thomas J. Fisher, Washington, D.C., for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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FINANCIAL CREDIT INVESTMENTS II, TRUST E, Appellant,
v.
ESTATE OF GEORGIA TOWERS, Respondent.

WD87569 Jackson County

Before Division Three Judges: Edward R. Ardini, P.J., Alok Ahuja and Thomas N. Chapman, J.J.

Financial Credit Investments II, Trust E, filed this action in the Circuit Court of Jackson County against the Estate of Georgia Towers, and against Edwin Towers, Georgia Towers' husband (collectively, "the Estate"). Georgia Towers died in 2021. The lawsuit concerns the parties' respective rights to a policy insuring Georgia Towers' life. Financial Credit contends that it is entitled to the $5 million death benefit on the life insurance policy, because the Towerses lawfully sold their rights in the policy in the secondary market, and Financial Credit purchased the policy rights before Georgia Towers' death. The Estate contends that the policy was an unlawful "stranger originated life insurance" (or "STOLI") policy, and that the proceeds of the policy rightfully belong to the Estate.

The circuit court dismissed Financial Credit's action, due to the pendency of other litigation initiated by the Estate in Minnesota and Delaware, which raises the same issues. Financial Credit appeals.

AFFIRMED.

Division Three holds:

The circuit court granted the Estate's motion to dismiss without stating a specific ground for its ruling. We will therefore affirm the judgment if it is sustainable on any ground asserted in the motion to dismiss. We find that the judgment is subject to affirmance based on the interstate comity doctrine. We review the dismissal on comity grounds under an abuse of discretion standard, and defer to the circuit court's resolution of any disputed factual issues.

The comity doctrine permits a Missouri court, in its discretion, to suspend or dismiss litigation in Missouri in deference to similar litigation pending in another State. In choosing whether to dismiss based on the comity doctrine, a circuit court may consider

a number of factors, including judicial efficiency; uniformity of decisions; the competing states' relative interests in the underlying dispute; the convenience of the parties and witnesses; and the parties' motivations in filing the respective actions.

In this case, the actions pending in Missouri and other States all involved the same fundamental, underlying issue: whether the policy insuring Georgia Towers' life was an unlawful STOLI policy. That fundamental question merits a single, uniform answer. Given that the policy was purchased by a Delaware trust with a Delaware trustee, at a time when the Towerses were living in California, Delaware has a greater interest in the litigation than Missouri. Further, the Delaware and Minnesota actions were filed before the Missouri action. The circuit court could find that Financial Credit filed the Missouri action in a preemptive effort to deny the Estate its choice of forum, and to evade the application of Delaware law to the dispute. The court could also find that the Estate is the "true plaintiff" in this dispute, since it is the one seeking to obtain affirmative relief to upset the *status quo*. The fact that the parties and issues in the various lawsuits are not identical does not defeat application of comity, since the issues and parties are substantially similar.

Opinion by: Alok Ahuja, Judge June 17, 2025

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