

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1961

**No. 13 Original**

STATE OF TEXAS,

*Plaintiff,*

*vs.*

STATE OF NEW JERSEY, *et al.*,

*Defendants,*

*and*

STATE OF FLORIDA,

*Intervenor.*

**OBJECTION OF THE STATE OF NEW JERSEY TO  
MOTION OF LIFE INSURANCE ASSOCIATION OF  
AMERICA FOR LEAVE TO FILE BRIEF  
AMICUS CURIAE**

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Office Supreme Court, U.S.

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The State of New Jersey objects to the motion of the Life Insurance Association of America for leave to file a brief *amicus curiae*, which was served on March 19, 1964, on the following grounds:

a. This case does not involve any unclaimed life insurance funds.

b. The nature of unclaimed life insurance funds can be properly distinguished from unclaimed funds held by general corporations.

c. There is no conflict between the laws of Texas Ch. 333, L. 1963 and the laws of New Jersey, L. 1946, c. 154 (N.J.S.A. 17:34-49 *et seq.*) which provides for the disposition of unclaimed life insurance funds.

d. All facts and questions relative to the unclaimed personal property involved in this action have been adequately presented to the Court by the parties.

e. Petitioner did not participate in the proceedings before the Special Master as *amicus curiae* in the sense in which this term is generally understood.

In the Statement of Interest petitioner says:

“While not a party to this action, Petitioner is none the less no stranger to the case, it having presented its views in a brief *amicus curiae* filed before the Special Master with his leave. The points which Petitioner will discuss in the brief, which it now seeks to file as an aid to this Court, are the same as those made in the *amicus* brief which the Special Master had before him.”

So that this Court will understand New Jersey is not seeking to eliminate from the proceedings an *amicus curiae* which participated as such before the Special Master, we respectfully present the following excerpts from an exchange of correspondence between the Special Master and the State of New Jersey.

From letter of the Special Master, dated September 26, 1963:

"P. S. Mr. Ralph Oman, an attorney of Topeka, Kansas, who has an interest in this litigation through representing life insurance companies and through his contacts with the Life Insurance Association of America, has on a number of occasions asked me whether the Association might file a brief in this case. I, of course, told him that they could not appear as a party nor I did not particularly relish filing a brief *amicus curiae*, but if they wanted to file with me a brief for whatever benefit it was to me, I would be glad to receive it since I was looking for all the help I could get. Mr. Oman is now in my office apologizing that they had been dilatory and now asks to obtain permission to file such a brief. I have reiterated my statement that the Court wants help from whatever source it can get and told him that if his organization wanted to file a brief, limited to the questions in this case, I would be glad to receive it and give it consideration the same as I would a citation from a lawyer on the street which bore on this question."

From letter of attorney for the State of New Jersey, dated October 2, 1963:

"We respectfully object to any life insurance companies being permitted to file a brief in this cause. Funds of the nature held by life insurance companies are not involved in this case. The United States Supreme Court by its order, dated February 25, 1963, denied the motion of the Insurance Company of North America for leave to intervene in this cause. This is, we believe a controlling expression that the questions to be litigated in this case are not to become further involved by unrelated questions relative to unclaimed funds held by life insurance companies."

From letter of the Special Master, dated October 4, 1963:

"Now, with respect to the brief of the life insurance companies. Permission has been given them to file such a brief and the brief is now being prepared. Mr. Ralph Oman, whom you may have met when you were here, a Topeka attorney, is now in New York assisting in the preparation of this brief. I had a telephone call from him in regard to this matter and that is the reason I know he is now there. I assume that I would have a perfect right to employ a law clerk to assist me in this matter and file his brief with me, and any brief filed by the insurance companies will be filed in that capacity. I strictly advised Mr. Oman the companies' brief should be limited to the question in issue before us.

"You know, Mr. Kehoe, I am desirous of gaining all the light and information I can from whatever source possible. That has always been my policy as a judge of the Court. If someone told me of a freight engineer down in the Santa Fe yards who had a case that he thought bore on these questions, I would go down and climb into the cab with him and get the information. The attorneys for the insurance companies will, of course, not be permitted to make oral argument at our hearing because they are not parties to this case, and as I have indicated in my previous letter, if the parties want time to reply to this brief, they will be given such time. I rather doubt whether the insurance companies can throw any new light on this question—that is things that either the attorneys in this case or I have not thought of."

We submit that the foregoing exchange between the Special Master and the State of New Jersey indicates that the

brief submitted to the Special Master by the Life Insurance Association of America was not presented *amicus curiae* as that term is generally intended. The petitioner seeks in this action to have the Court pass upon questions relative to unclaimed insurance funds. Such unclaimed funds are not involved in the action and the judgment entered by this Court will not be binding upon the life insurance companies.

### CONCLUSION

**For the foregoing reasons we respectfully submit that the motion of Life Insurance Association of America for leave to file a brief *amicus curiae* should be denied.**

Respectfully submitted,

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