



And The Defense Wins

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In what is believed to be the first case of its kind to go to verdict, DRI members [Sean P. MacCarthy](#) and [Craig M. Bargher](#) of **Chittenden, Murday & Novotny LLC** in Chicago obtained a full defense jury verdict for CMN client American Family Life Insurance Company in a wrongful death case brought against American Family for alleged negligent issuance of a life insurance policy. In *Bryant v. American Family Life Insurance Company*, No. 09 L 006659, Circuit Court of Cook County, Illinois, County Department, Law Division (May 20, 2010), the plaintiff alleged that American Family negligently issued a \$500,000 universal life insurance policy, insuring the life of Lorenzo Hamilton, after an imposter applied for the policy in January 2001 at the office of an American Family agent. The imposter represented to the agent that he was Hamilton, provided income information, presented an employee identification card with Hamilton's name on it, and signed the application. Another person represented herself as Hamilton's fiancée, and was the named beneficiary.

Approximately two months after American Family issued the policy, the imposter and another person murdered Hamilton. The imposter fiancée then made a claim for the death benefits. American Family conducted a contestable investigation, quickly learned that the imposter applied for the policy, and denied the claim. The murderers were convicted and sentenced to prison, and the impostor fiancée was convicted of insurance fraud and sentenced to prison, as well.

At trial, American Family's underwriting expert, who had been employed as a home office underwriter for over 20 years, testified that the insurer properly followed all of its policies and procedures and complied with the applicable standard of care. The plaintiff asked the jury to award \$1,700,000 in damages but the jury returned a full defense verdict.

This was the first case to be tried in Illinois against an insurance company for the alleged negligent issuance of an insurance policy to an imposter since the Illinois Supreme Court's decision in *Bajwa v. Metropolitan Life Insurance Company*, 208 Ill. 2d 414, 804 N.E.2d 519 (Ill. 2004), which recognized such a cause of action.

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