

MERTIS O. CHILDRESS, as)	IN THE CIRCUIT COURT OF
Administratrix of the Estate of	(
DELLIE A. TEEL, Deceased,	*	BALDWIN COUNTY, ALABAMA
	*	
Plaintiff,)	
	(
vs.	*	
	*	
BANKERS LIFE & CASUALTY)	AT LAW
COMPANY, a legal reserve	(
stock company, with home office	*	
at 4444 Lawrence Avenue,	*	
Chicago 30, Illinois,)	
	(
Defendant.	*	CASE NO. 5499

MOTION TO STRIKE

Comes now the Defendant in the above styled cause and respectfully moves the Court to strike from Plaintiff's Replication 2 the following allegation:

"the Defendant thereafter and before the issuance and delivery of the policy sued on, had its medical examiner, who was then and there acting as its duly authorized agent, inquire into the insurability of the said decedent, and said agent examined the said insured and investigated his physical condition, and said agent reported his conclusions to the Defendant and the Defendant, acting upon the report of its said agent, thereupon and thereafter issued and delivered said policy to the insured."

And from Plaintiff's Replication 3 the following allegation:

"Plaintiff avers that the decedent was not suffering

from said disease at the time the said policy of insurance was issued and delivered . . . "

And Defendant asserts the following separate and several grounds in support of said Motion:

1. Said allegation is irrelevant.
2. Said allegation is impertinent.
3. Said allegation does not aver a sufficient replication.
4. Said allegation is immaterial.

ARMBRECHT, JACKSON, McCONNELL &
DeMOUY

By:


WILLIAM H. ARMBRECHT, III

By:


BROOX G. HOLMES

CERTIFICATE OF SERVICE

I, BROOX G. HOLMES, do hereby certify that I have served a copy of the foregoing Motion to Strike on the Honorable James R. Owen, attorney for Plaintiff, by handing it to him on this 22nd day of October, 1963.


BROOX G. HOLMES

FILED

- 2 -

OCT 22 1963

ALICE J. DUCK, CLERK
REGISTER

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of DELLIE A. TEEL,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 5499

REPLICATION

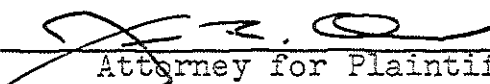
Now comes the Plaintiff in the above styled cause and for answer to the Defendant's pleas 1 through 7 inclusive, separately and severally, files the following replications separately and severally:

1. The Plaintiff joins issue on said plea.

2. Notwithstanding the alleged false and fraudulent representations made by the decedent, the Defendant thereafter and before the issuance and delivery of the policy sued on, had its medical examiner, who was then and there acting as its duly authorized agent, inquire into the insurability of the said decedent, and said agent examined the said insured and investigated his physical condition, and said agent reported his conclusions to the Defendant and the Defendant, acting upon the report of its said agent, thereupon and thereafter issued and delivered said policy to the insured. Plaintiff avers that the Defendant knew that the decedent had on to-wit, October 10, 1958, consulted a physician for angina, but nevertheless had the said decedent examined by its own medical doctors, as aforesaid, and issued the said policy of insurance to the said decedent with full knowledge of the said decedent's alleged misrepresentation.

2. Notwithstanding the fact that angina pectoris is a disease which increased the risk of loss under the policy of insurance sued on, [the Plaintiff avers that the decedent was not suffering from said disease at the time the said policy of insurance was issued

and delivered] and further avers that the said Defendant did not rely on the representation by the insured that he had never been treated for heart disease, but in fact issued the said policy wholly upon the report of its medical examiner, who examined the insured on September 21, 1961, and on September 12, 1961, and the Plaintiff avers further that the Defendant knew of the decedent's physical condition and knew that he had been treated for angina on to-wit, October 10, 1958, before the said policy of insurance was issued and delivered.


Attorney for Plaintiff

FILED

AUG 26 1963

ALICE J. DUCK, CLERK
REGISTER

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of DELLIE A. TEEL,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW CASE NO. 5499

DEMURRER

Now comes the plaintiff in the above styled cause and demurs to Pleas 4, 5, 6 and 7 separately and severally and as grounds for said demurrer assign the following separately and severally:

1. Said plea does not allege any facts which constitute a defense to the complaint.

2. Said plea does not allege that the insured was afflicted with angina pectoris on October 10, 1958.

3. Said plea does not allege that the insured was afflicted with angina pectoris at the time the said policy of insurance was issued by the defendant.

4. Said plea does not allege that the said misrepresentation on the part of the insured was intrinsically relevant to the issuance of the said insurance policy by the defendant.

5. Said plea does not allege that the said misrepresentation on the part of the insured was relied on by the defendant to its prejudice.


Attorney for Plaintiff

FILED

APR 24 1963

ALICE J. DUCK, CLERK
REGISTER

MERTIS O. CHILDRESS, as
Administratrix of the Estate
of DULLIE A. TEEL, Deceased,

Plaintiff,

Vs.

BANKERS LIFE & CASUALTY
COMPANY, a legal reserve stock
company, with Home Office at 4444
Lawrence Avenue, Chicago 30,
Illinois,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. _____

PLEA

Comes now the Defendant in the above styled cause and for answer to the Complaint and to each and every count thereof, separately and severally, files the following separate and several pleas:

1. The allegations of the count are untrue.
2. The allegations of the complaint are untrue.
3. The Defendant specifically denies that the policy is the property of the Plaintiff.
4. Defendant avers that in the application of the policy sued on, the insured, Daniel L. Teel, on to wit: August 11, 1961, gave the answer "no" in response to the question, "8. Have you ever had or been under observation for: (g) Rheumatism, heart disease, goitre or high blood pressure?" And said answer by the insured was a representation which was false in that, on to wit: October 10, 1958, the insured consulted a physician for angina pectoris and was treated for said disease. Defendant avers that said misrepresentation was made by the insured with actual intent to deceive the Defendant and Defendant was deceived thereby, and, in reliance on said representation, Defendant issued the policy sued on.

Defendant avers that it has heretofore tendered to Plaintiff and now pays into Court \$500.50, a sum equal to the amount of all premiums paid on said policy.

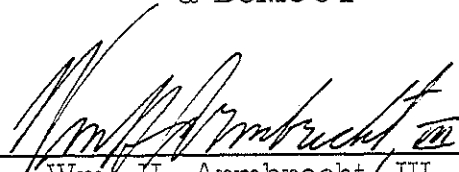
5. Defendant avers that in the application of the policy sued on, the insured, Daniel L. Teel, on to-wit: August 11, 1961, gave the answer "no" in response to the question, "8. Have you ever had or been under observation for: (g) Rheumatism, heart disease, goitre or high blood pressure?" And said answer by the insured was a representation which was false in that, on to-wit: October 10, 1958, the insured consulted a physician for angina pectoris and was treated for said disease. And Defendant avers that the disease angina pectoris is a disease which increased the risk of loss under said policy and that, in reliance on said misrepresentation made by the insured, Defendant issued the policy sued on.

Defendant avers that it has heretofore tendered to Plaintiff and now pays into Court \$500.50, a sum equal to the amount of all premiums paid on said policy.

6. Defendant avers that in the application of the policy sued on, the insured, Daniel L. Teel, represented to the Defendant that he had not consulted a physician for heart disease within the five years preceding his application for the policy sued on. Defendant further avers that said representation was false in that the insured had consulted a physician for angina pectoris on to-wit: October 10, 1958, for which disease the insured was treated by said physician. And Defendant avers that it relied upon said representation made by the insured which representation was false and thereupon issued the policy. The disease angina pectoris is a disease which increased the risk of loss under said policy. And Defendant avers that it has heretofore tendered to Plaintiff, and now pays into Court \$500.50 a sum equal to the amount of all premiums paid on said policy.

7. Defendant avers that in the application of the policy sued on, the insured, Daniel L. Teel, represented to the Defendant that he had not consulted a physician for heart disease within the five years preceding his application for the policy sued on. Defendant further avers that said representation was false in that the insured had consulted a physician for angina pectoris on to-wit October 10, 1958, for which disease the insured was treated by said physician. Defendant avers that said misrepresentation was made by the insured with actual intent to deceive the Defendant and Defendant was deceived thereby, and, in reliance thereon, Defendant issued the policy sued on. And Defendant avers that it has heretofore tendered to Plaintiff, and now pays into Court \$500.50 a sum equal to the amount of all premiums paid on said policy.

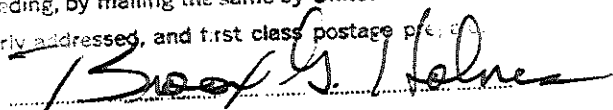
ARMBRECHT, JACKSON, McCONNELL
& DeMOUY

By 
Wm. H. Armbricht, III

By 
Brook G. Holmes

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 16th
of April, 1963, served a copy
of foregoing pleading on counsel for all parties to
proceeding, by mailing the same by United States mail,
properly addressed, and first class postage prepaid.



FILED

APR 17 1963

-3-

ALICE J. DUCK, CLERK
REGISTER

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Bankers Life and Casualty Company, a legal reserve stock company with home office at 4444 Lawrence Avenue, Chicago 30, Illinois, to appear within thirty days from the service of this writ in the Circuit Court, to be held for said County at the place of holding the same, then and there to answer the complaint of Mertis O. Childress, as Administratrix of the Estate of Dellie A. Teel, deceased.

WITNESS my hand this 6 day of March, 1963.

Allice I. Duck
Clerk

The defendant may be served by serving a copy of the summons and complaint on the Superintendent of Insurance for the State of Alabama, Montgomery, Alabama.

* * * * *

MERTIS O. CHILDRESS, as
Administratrix of the estate
of Dellie A. Teel, deceased,

Plaintiff,

VS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve Stock
Company, with home office at
4444 Lawrence Avenue, Chicago,
30, Illinois,

Defendant.

COMPLAINT

The plaintiff claims of the defendant Five Thousand Dollars (\$5,000.00), due on a policy, whereby the defendant, on the 13th day of October, 1961, insured the life of Dan L. Teel, who died on January 17, 1962, of which the defendant has had notice. Said policy is the property of the plaintiff.

FILED
ALICE I. DUCK, CLERK
RECORDED

[Signature]
Attorney for Plaintiff

5499

Received 7 day of March 1963
and on _____ day of _____ 19____

I served a copy of the within _____

on _____

By service on The Sheriff claiming ✓
_____ miles at 10¢ per mile for a total
_____ of \$20.00
of TAYLOR WILKINS, Sheriff
M. S. Butler, Sheriff
By Montgomery County, Ala. D. S.

Mertis B. Chidress
VS
Banker's Life & Casualty Co.

(2)

RECEIVED IN OFFICE
MAR 8 1963
M. S. BUTLER, Sheriff

RECEIVED IN OFFICE
MAR 21 1963
M. S. BUTLER, Sheriff

Executed by serving 2 copies of
the within on Walter S. Rouseal
_____, Superintendent
of Insurance, State of Alabama
This the 22 day of April 1963

Sheriff of Montgomery County,
M. S. Butler,
By J. Remo D. S.

FILED
Mar 6 - 63
ALICE L. DUCK, CLERK

STATE OF ALABAMA

DEPARTMENT OF INSURANCE

I, the undersigned as Superintendent of Insurance for the State of
Alabama, hereby certify that on the 22nd day of March, 1963,

I sent by registered mail in an envelope as follows:

Bankers Life and Casualty Company
4444 West Lawrence
Chicago 30, Illinois

REGISTERED MAIL
RETURN RECEIPT REQUESTED

bearing sufficient prepaid postage, a copy of a summons and complaint served
upon me by the Sheriff of Montgomery County, Alabama, in a cause styled as
follows:

Mertis O. Childress, as Administratrix of the estate
of Dellie A. Teel, deceased,

Plaintiff

in the Circuit Court of Baldwin County

VERSUS

(Name of Court)

Bankers Life and Casualty Company, a Legal
Reserve Stock Company, with home Defendant
office at 4444 Lawrence Avenue, Chicago 30, Illinois

And that on the 27th day of March, 1963, I

received the return card showing receipt by the designated addressee of said

envelope on the 25th day of March, 1963.

Witness my hand and official seal this the 28th day of March

1963.

FILED

MAR 29 1963

ALICE J. DUCK, CLERK
REGISTER

Walter A. Houseal
SUPERINTENDENT OF INSURANCE

MERTIS O. CHILDRESS, as)	IN THE CIRCUIT COURT OF
Administratrix of the Estate of	(
DELLIE A. TEEL, Deceased,	*	BALDWIN COUNTY, ALABAMA
	*	
Plaintiff,)	
	(
vs.	*	
	*	
BANKERS LIFE & CASUALTY)	AT LAW
COMPANY, a legal reserve	(
stock company, with home office	*	
at 4444 Lawrence Avenue,	*	
Chicago 30, Illinois,)	
	(
Defendant.	*	CASE NO. 5499

DEMURRER TO REPLICATION

Comes now the Defendant in the above styled cause and demurs to Replications 2 and 3, separately and severally, upon the following separate and several grounds:

1. Said Replication is legally insufficient.
2. Said Replication wholly fails to state a reply to Defendant's plea.
3. For that the fact that Defendant's said medical examiner made a physical examination of the insurability of the decedent is not a reply to Defendant's plea.
4. For that the fact that Defendant's said medical examiner made a physical examination of the decedent did not absolve the decedent from making true representations on said application for said

policy, or lessen Defendant's right to rely on
decedent's representations.

5. For that it is no reply that said decedent
was not suffering from said disease at the time said
policy of insurance was issued.

6. Said plea is duplicitous.

7. There is a misjoinder of replications
in said Replication.

ARMBRECHT, JACKSON, McCONNELL &
DeMOUY

By:


WILLIAM H. ARMBRECHT, III

By:


BROOX G. HOLMES

CERTIFICATE OF SERVICE

I, BROOX G. HOLMES, do hereby certify that I have served
a copy of the foregoing Demurrer to Replication on the Honorable James R.
Owen, attorney for Plaintiff, by handing it to him on this 22nd day of
October, 1963.


BROOX G. HOLMES

FILED

OCT 22 1963

ALICE L. DUCK, CLERK
REGISTER

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of Dellie A. Teel,
Deceased,

Plaintiff,

VS.

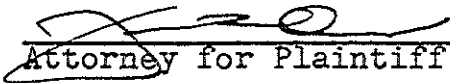
BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 5499

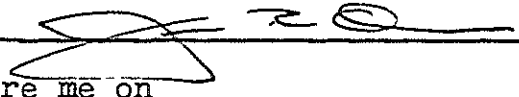
MOTION

Now comes the plaintiff in the above styled cause and moves the court to compel, by order, the defendant to produce, at or before the trial, all papers or documents in its possession or power with reference to the physical condition of the decedent, Dan L. Teel, before the policy of insurance which is the subject of this suit was sued on and all correspondence in connection therewith which said documents and correspondence are necessary and material to the trial of said cause and which contain evidence pertinent to the issues of said trial.


Attorney for Plaintiff

STATE OF ALABAMA)
*
BALDWIN COUNTY)

Before me, the undersigned authority, personally appeared James R. Owen, who first being duly and legally sworn deposes and says: That he is the attorney for the plaintiff in the above styled cause and as such has knowledge of the facts set out in the foregoing motion; that the documents therein described contain evidence pertinent to the issues in this cause and that they are necessary and material to a proper disposition of this cause.

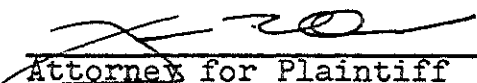

Sworn to and subscribed before me on
this the 25th day of October, 1963.

Ernestine R. Sims
Notary Public, Baldwin County, Alabama.

TO: Armbrecht, Jackson, McConnell & DeMouy
Attorneys at Law
Merchants National Bank Building
Mobile, Alabama

Attention: Mr. Holmes

Please take notice that the above and foregoing motion
will be called to the attention of Judge Hubert M. Hall, Judge of
the Circuit Court of Baldwin County, Alabama, on October 30, 1963,
at 10:00 o'clock A. M.


Attorney for Plaintiff

FILED

OCT 25 1963

ALICE J. DUCK, CLERK
REGISTER

ARMBRECHT, JACKSON, McCONNELL & DeMOUY
LAWYERS

MERCHANTS NATIONAL BANK BUILDING

P. O. BOX 290

MOBILE, ALABAMA

WM. H. ARMBRECHT
THEODORE K. JACKSON
JOHN W. McCONNELL, JR.
MARSHALL J. DeMOUY
WM. H. ARMBRECHT, III
RAE M. CROWE
BROOK G. HOLMES
W. BOYD REEVES

HEMLOCK 3-1891

CABLE ADDRESS
SEALAW

April 26, 1963

Mrs. Alice Duck
Baldwin County Court House
Circuit Court
Bay Minette, Alabama

Re: Mertis Childress, etc. vs
Bankers Life & Casualty Co.
Case No. 5499

Dear Mrs. Duck:


Enclosed you will find a check for \$500.50 payable to the Plaintiff in this case made by Bankers Life & Casualty Company, the Defendant. We wish to substitute this check for our firm check in this case. Please place this check in the file and return our check at your earliest convenience.

I believe this change will meet with Mr. Owen's approval, however, by copy of this letter I am requesting him to notify me if he has any objections.

Thanking you, I am

Very truly yours,

ARMBRECHT, JACKSON, McCONNELL
& DeMOUY

By 

BROOK G. HOLMES

BGH/gg

Enclosure

cc: Mr. James Owen

ARMBRECHT, JACKSON, McCONNELL & DEMOUY
LAWYERS

MERCHANTS NATIONAL BANK BUILDING

P. O. BOX 290

MOBILE, ALABAMA

36601

AREA CODE 205
PHONE 433-1891

CABLE ADDRESS
SEALAW

WM. H. ARMBRECHT
THEODORE K. JACKSON
JOHN W. McCONNELL, JR.
MARSHALL J. DEMOUY
WM. H. ARMBRECHT, III
RAE M. CROWE
BROOK G. HOLMES
W. BOYD REEVES
JOHN GROW

October 24, 1963

Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
Baldwin County Courthouse
Bay Minette, Alabama

Re: Mertis O. Childress vs. Bankers
Life & Casualty Company
Case No. 5499

Dear Mrs. Duck:

Please have subpoenas issued to the following persons to
appear for the trial of the captioned case on Wednesday, October 30, 1963,
at 10:00 A.M.:

1. Dr. William C. Holmes, Jr.
Ochsner Foundation Hospital
1514 Jefferson Highway
New Orleans 21, Louisiana

Also a subpoena duces tecum to Dr. Holmes
to bring with him and produce all records, memoranda
and files regarding his examination, treatment and
diagnosis of Daniel L. Teel.

2. Mr. Bill Macon
Macon Drugs
Robertsdale, Alabama

Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
October 24, 1963
Page Two

Also a subpoena duces tecum to Mr. Macon to bring with him and produce all records of prescriptions of medicines or drugs sold or given to Mr. Daniel L. Teel during the period October 1, 1958 to January 17, 1962.

3. Dr. Richard Rowe
Foley, Alabama

Also a subpoena duces tecum to Dr. Rowe to bring with him and produce all records, memoranda and files regarding his examination, treatment and diagnosis of Daniel L. Teel.

4. Administrator or Records Custodian
South Baldwin Hospital
Foley, Alabama

Also a subpoena duces tecum to the Administrator or Records Custodian to bring with him and produce all hospital records, ledgers, files and memoranda pertaining to Mr. Daniel L. Teel.

5. Dr. Norman Van Wezel
Foley, Alabama


Also, a subpoena duces tecum to Dr. Van Wezel to bring with him and produce all records, memoranda and files regarding his examination, treatment and diagnosis of Daniel L. Teel.

Thanking you, I am

Very truly yours,

ARMBRECHT, JACKSON, McCONNELL &
DeMOUY

By:


BROOX G. HOLMES


BGH:bp

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of DELLIE A. TEEL,
Deceased,

Plaintiff,)

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW CASE NO. 5499

INTERROGATORIES PROPOUNDED
TO DEFENDANT

Now comes the plaintiff in the above styled cause and propounds the following interrogatories to the defendant in this cause:

1. On October 13, 1961, did you issue policy No. 4111798 in the amount of Five Thousand Dollars (\$5000.00) to Dan L. Teel?
2. On October 13, 1961, was Hugh H. Vance an agent of your company.
3. If your answer to interrogatory No. 2 is yes give the street address and place of residence of the said Hugh H. Vance.
4. Have you received due proof that the said Dan L. Teel referred to in Interrogatory No. 1 to whom your said insurance policy was issued died on January 17, 1962?
5. Have you had notice that the said Dan L. Teel, who was insured under your policy No. 4111798 which was issued on October 13, 1961, died on January 17, 1962.
6. Did you cause a heart examination to be made of the said Dan L. Teel by Dr. J. Foster on September 21, 1961?
7. If your answer to the next preceding interrogatory is yes please attach a copy of the said heart examination.
8. Did you cause a heart examination of Dan L. Teel to be made by Dr. J. Michaelson on September 12, 1961?
9. If your answer to the next preceding interrogatory is yes please attach a copy of the results of the said heart examination.

10. When did you first ascertain that the insured, Dan L. Teel, had consulted a physician for angina pectoris on October 10, 1958?

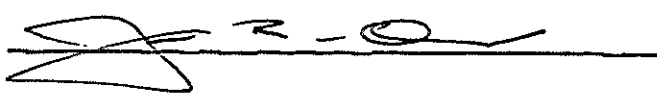
11. Give the name and address of your agent who first ascertained that the insured, Dan L. Teel, had consulted a physician for angina pectoris on October 10, 1958.

12. If you state that Dr. J. Foster and Dr. J. Michaelson made a heart examination of the insured, Dan L. Teel, at the time specified above please give the purpose of said examinations.


Attorney for Plaintiff

STATE OF ALABAMA)
 *
BALDWIN COUNTY)

Before me, the undersigned authority, personally appeared James R. Owen, who first being duly and legally sworn, deposes and says: that he is the attorney for the plaintiff in the above styled cause; that the answers to the foregoing interrogatories will be material testimony for the plaintiff in the trial of the said cause.


Sworn to and subscribed before me
on this the 24th day of April, 1963.



Notary Public, Baldwin County, Alabama

The undersigned, one of the attorneys for the defendant in this cause, does hereby accept service of a copy of the foregoing interrogatories and waives any further service thereof.

DATED this 26th day of April, 1963.

ARMBRECHT, JACKSON, McCONNELL AND DeMOUY

By: 

FILED

APR 26 1963

ALICE L. DUCK, CLERK
REGISTER

ARMBRECHT, JACKSON, McCONNELL & DEMOUY
LAWYERS

MERCHANTS NATIONAL BANK BUILDING

WM. H. ARMBRECHT
THEODORE K. JACKSON
JOHN W. McCONNELL, JR.
MARSHALL J. DEMOUY
WM. H. ARMBRECHT, III
RAE M. CROWE
BROOK G. HOLMES
W. BOYD REEVES

P. O. BOX 290
MOBILE, ALABAMA 36601

HEMLOCK 3-1891
CABLE ADDRESS
SEALAW

August 9, 1963

Mrs. Alice Duck
Circuit Court
Baldwin County Court House
Bay Minette, Alabama

Re: Mertis O. Childress, as
Administratrix, etc. v
Bankers Life & Casualty
Company; Case No. 5499

Dear Mrs. Duck:

Enclosed you will find the Defendant's Answers to
Interrogatories which we wish to file in the captioned case.

Inasmuch as the filing of these Answers renders
Plaintiff's Motion for Judgment by Default moot, I am by copy
of this letter requesting that Mr. Owen either withdraw his
Motion or have the Judge deny it.

Thank you for your consideration.

Very truly yours,

ARMBRECHT, JACKSON, McCONNELL
& DEMOUY

By Brook G. Holmes

BROOK G. HOLMES

BGH/gg
Enclosure

cc: Mr. James R. Owen

MERTIS O. CHILDRESS, as)	IN THE CIRCUIT COURT OF
Administratrix of the Estate of	:	
DELLIE A. TEEL, Deceased,	(
	:	BALDWIN COUNTY, ALABAMA
Plaintiff,)	
	:	
VS	(
	:	AT LAW
BANKERS LIFE & CASUALTY)	
COMPANY, a legal reserve	:	
stock company, with home office	(
at 4444 Lawrence Avenue,	:	CASE NO. 5499
Chicago 30, Illinois,)	
	:	
Defendant.	(

ANSWERS TO INTERROGATORIES

Comes now the Defendant in the above styled cause and in answer to the interrogatories heretofore propounded by the Plaintiff says as follows:

1. On the basis of medical information and based on the declaration by Mr. Daniel L. Teel that he had not consulted a physician for heart disease within the five (5) years preceding his application for said policy, Policy No. 4,111,798 was issued in the amount of \$5,000.00 to Daniel L. Teel.

2. Yes.

3. 4037 Dolly Ridge Road, Birmingham.

4. Yes.

5. Yes.

6. Yes.

7. A copy of the said examination is in the possession of Plaintiff's attorney.

8. The examination referred to in question eight (8) is the same examination as the one referred to in question six (6).

9. A copy of said examination is in the possession of Plaintiff's attorney.

10. Subsequent to Mr. Daniel L. Teel's death as a result of coronary occlusion.

11. On advice of counsel, Defendant respectfully declines to answer this interrogatory.

12. Said examination was a part of a physical examination of Daniel L. Teel which together with his answers in the application were necessary for a proper determination by the Defendant of whether the said policy would be issued.

BANKERS LIFE & CASUALTY COMPANY

By Asa Kelly

STATE OF ILLINOIS ()

COUNTY OF COOK ()

Personally appeared before me, the undersigned Notary Public, Asa Kelly, known to me to be an officer of BANKERS LIFE & CASUALTY COMPANY, INC., a corporation, and who by me being first duly sworn, deposes and says that the answers to the foregoing interrogatories are true and correct according to the best of his knowledge and belief.

SUBSCRIBED and SWORN TO before me on this 6th day of August, 1963.

Margaret M. McTigue
Notary Public, Cook County, Illinois

Of Counsel:

ARMBRECHT, JACKSON, McCONNELL & DeMOUY
1101 Merchants National Bank Building
Mobile, Alabama

By Brook S. Holmes

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 6th day of August, 1963, served a copy of the foregoing pleading, counsel for all parties to this proceeding, by a person in same with the States mail, properly addressed and first class prepaid.

Brook S. Holmes

FILED

AUG 12 1963

ALICE J. DICK, CLERK
REGISTER

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of Dellie A. Teel,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5499

CIVIL SUBPOENA

STATE OF ALABAMA)

*

BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon Hugh Vance, if to be found in your County, at the instance of the plaintiff to be and appear at the office of Louise J. Dusenbury at the Courthouse in Baldwin County, Alabama, in Bay Minette, Alabama, at 10:00 A. M. on the 18th day of October, 1963, and from day to day and term to term of said court until discharged by law, then and there to testify, and the truth to say in a certain cause pending wherein Mertis O. Childress, as administratrix of the Estate of Dellie A. Teel, Deceased, is plaintiff, and Bankers Life and Casualty Company, a Legal Reserve Stock Company, with Home Office at 4444 Lawrence Ave., Chicago 30, Illinois, is defendant.

Herein fail not, and have you then and there this writ.

Given under my hand and seal, this 2nd day of October, 1963.

Marie J. Luck
Clerk

Mr. Hugh Vance may be served at his residence at
724 East Iwo Jima, Mobile, Alabama, or at his office which is
Bankers Life and Casualty Company, Mobile, Alabama.

Received H Day of Oct 1963
and on 10 Day of Oct 1963
I served a subpoena
on Bankers Life & Casualty
Company
for service on Wright & Glance

RAY D. BRIDGEMAN, Sheriff
W. H. Hays D.S.

RECEIVED
OCT 4 1963
SHERIFF'S OFFICE

File
Memorandum

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5499
10/10/63
Martin's Children
DS
Bankers Life & Casualty
Co

3897

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of Dellie A. Teel,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. 5499

NOTICE OF EXAMINATION

TO: Armbrecht, Jackson, McConnell & DeMouy
Lawyers
P. O. Box 290
Mobile, Alabama

Attention: Mr. Holmes

Notice is hereby given that the plaintiff will take the testimony of
Hugh Vance, 724 East Iwo Jima, Mobile, Alabama, on October 18, 1963, at 10:00
o'clock A. M. at the office of Louise J. Dusenbury at the Courthouse of Baldwin
County, Alabama, in Bay Minette, Alabama, at which time you may be present and
propound such questions to the said witness as you think proper, if you so desire.

DATED this 2nd day of October, 1963.


Attorney for Plaintiff

* * * * *

I, James R. Owen, attorney for plaintiff in the above styled cause, do
hereby certify that I have this date mailed a copy of the above notice to
Armbrecht, Jackson, McConnell & DeMouy, attorneys for the defendant, at their
post office address in Mobile, Alabama, postage prepaid.

DATED this 2nd day of October, 1963.


Attorney for Plaintiff

FILED
OCT 2 1963
ALICE L. DUCK, CLERK
REGISTER

JAMES R. OWEN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA
October 2, 1963

Mrs. Alice J. Duck
Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Please subpoena the following witness to testify for the plaintiff on October 18, 1963, at 10:00 A. M. at the office of Louise J. Dusenbury at the Courthouse in Bay Minette, Alabama:

Hugh Vance
724 East Iwo Jima
Mobile, Alabama

Office address:
Bankers Life and Casualty Company
Mobile, Alabama

Yours very truly,



JAMES R. OWEN

JRO/ers

none
10-4-63

STATE OF ALABAMA)
 *
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Bankers Life and Casualty Company, a legal reserve stock company with home office at 4444 Lawrence Avenue, Chicago 30, Illinois, to appear within thirty days from the service of this writ in the Circuit Court, to be held for said County at the place of holding the same, then and there to answer the complaint of Mertis O. Childress, as Administratrix of the Estate of Dellie A. Teel, deceased.

WITNESS my hand this 6 day of March, 1963.

Deirdre J. Luck
Clerk

The defendant may be served by serving a copy of the summons and complaint on the Superintendent of Insurance for the State of Alabama, Montgomery, Alabama.

* * * * *

MERTIS O. CHILDRESS, as
Administratrix of the estate
of Dellie A. Teel, deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve Stock
Company, with home office at
4444 Lawrence Avenue, Chicago
30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

COMPLAINT

The plaintiff claims of the defendant Five Thousand Dollars (\$5,000.00), due on a policy, whereby the defendant, on the 13th day of October, 1961, insured the life of Dan L. Teel, who died on January 17, 1962, of which the defendant has had notice. Said policy is the property of the plaintiff.

FILED
3-6-63
CLERK
REGISTER

Deirdre J. Luck
Attorney for Plaintiff

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of DELLIE A. TEEL,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 5499

MOTION FOR JUDGMENT BY DEFAULT

Now comes the Plaintiff in the above styled cause and shows unto the Court that interrogatories were propounded to the Defendant on April 29, 1963, and that more than sixty days has passed and the Defendant has failed to answer the said interrogatories as required by Section 483, Title 7 of the 1940 Code of Alabama wherefore, Plaintiff moves the Court to enter a default judgment against the said Defendant after giving the Defendant ten days notice of the filing of this said motion.

DATED this 12th day of July, 1963.


Attorney for Plaintiff

* * * * *

ORDER SETTING MOTION FOR HEARING

The above motion having been presented to me on this date, it is, hereby ordered that the said motion be set for hearing on the 14 day of August, 1963, at 10:00 o'clock A. M. and it is further ordered that the Clerk of the Circuit Court of Baldwin County, Alabama, give notice hereof by mailing a copy of the said motion and this order to the Defendant's attorneys.

ORDERED on this the 15 day of July, 1963.

FILED

JUL 15 1963

ALICE J. DUCK, CLERK
REGISTER


Judge

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of Dellie A. Teel,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

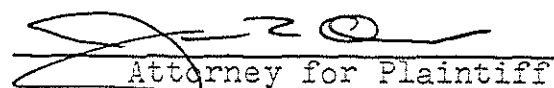
AT LAW

NO. 5499

MOTION FOR JUDGMENT BY DEFAULT

Now comes the Plaintiff in the above styled cause and shows unto the court that the Defendant filed answers to interrogatories in this cause on the 9th day of August, 1963, but which answers are not full and are evasive and are not made by an officer, agent, or servant of the defendant corporation as may be cognizant of the facts, wherefore, Plaintiff moves the court to enter a default judgment against the said Defendant after giving ten days notice of the filing of this said motion.

DATED this 16th day of August, 1963.


Attorney for Plaintiff

* * * * *

ORDER SETTING MOTION FOR HEARING

The above motion having been presented to me on this date, it is, hereby ordered that the said motion be set for hearing on the 3rd day of September, 1963, at 10:00 o'clock A. M. and it is further ordered that the Clerk of the Circuit Court of Baldwin County, Alabama, give notice hereof by mailing a copy of the said motion and this order to the Defendant's attorney by United States mail, properly addressed, and first class postage be paid.

ORDERED on this the 19th day of August, 1963.

FILED

AUG 19 1963

CLERK
REGISTER


Judge

MERTIS O. CHILDRESS, as
Administratrix of the
Estate of Dellie A. Teel,
Deceased,

Plaintiff,

VS.

BANKERS LIFE AND CASUALTY
COMPANY, a Legal Reserve
Stock Company, with Home
Office at 4444 Lawrence Ave.,
Chicago 30, Illinois,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

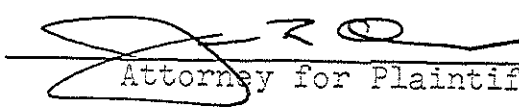
NO. 5499

MOTION TO STRIKE

Now comes the Plaintiff in the above styled cause and moves the court to strike from the Defendant's answer to the Plaintiff's interrogatory number one the following: "On the basis of medical information and based on the declaration by Mr. Daniel L. Teel that he had not consulted a physician for heart disease within the five (5) years preceding his application for said policy," and as grounds for said motion assign the following separately and severally:

1. The said part of the answer sought to be stricken is not responsive to the interrogatory.
2. That part of the said answer to the interrogatory sought to be stricken is a voluntary nonresponsive answer.
3. That part of the said answer sought to be stricken is irrelevant and immaterial.

Dated this 16th day of August, 1963.


Attorney for Plaintiff

* * * * *

ORDER SETTING MOTION FOR HEARING

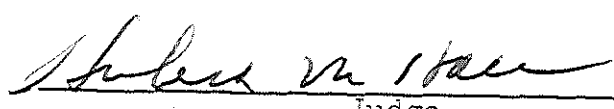
The above motion having been presented to me on this date, it is, hereby ordered that the said motion be set for hearing on the 3rd day of September, 1963, at 10:00 o'clock A. M.

Ordered on this the 19th day of August, 1963.

FILED

AUG 19 1963

ALICE J. DUCK, CLERK
REGISTER


Judge

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