

PLAINTIFF'S REQUESTED CHARGE NO. 1

The Court charges the Jury that if you believe from the evidence that Defendant, H. C. Gunnison, did not make demand to Plaintiff, Pinto Credit Union for the return of his deposit until after the filing of this suit, you cannot find for Defendant, H. C. Gunnison on his Counterclaim.

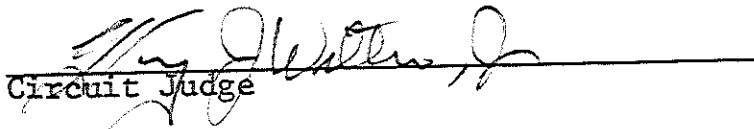
Given \_\_\_\_\_ Refused       ✓      

  
Circuit Judge

PLAINTIFF'S REQUESTED CHARGE NO. 2

The Court charges the Jury that if you believe from the evidence that Defendant, H. C. Gunnison, did not make demand to Plaintiff, Pinto Credit Union for the return of his deposit until after the filing of this suit, you must find for Plaintiff on the Counterclaim of Defendant, H. C. Gunnison.

Given \_\_\_\_\_ Refused  \_\_\_\_\_

  
Circuit Judge

TPD #1

The Court charges the jury that if you are reasonably satisfied from all of the evidence in the case that a material contributing cause of loss was from sickness or injury which was suffered by the Defendant and Third Party Plaintiff, H. C. Gunnison, and such sickness or injury first became manifest prior to the time insurance coverage was otherwise effective, then you can not return a verdict in favor of the Defendant and Third Party Plaintiff, H. C. Gunnison.

Respectfully,  
Walter J. Williams, Jr. Judge

TPD #2

The Court charges the jury that a physical illness of which an insured is afflicted on the date of a loan, which is the date coverage would otherwise be effective, and which continues to and causes the insured's inability to carry out the regular and ordinary duties of his employment, materially affects the acceptance of the risk. If you are reasonably satisfied from the evidence that the Third Party Plaintiff, on May 1, 1969, was afflicted with pulmonary emphysema and that this condition caused the insured's inability to carry on the regular and ordinary duties of his employment, Third Party Plaintiff would not be entitled to recover against the Third Party Defendant.

Refused  
H. J. Williams, Jr.  
Judge

TPD #3

The Court charges the jury that a condition increases the risk of loss to an insurer if it tends to materially shorten the person's ability to continue to perform his regular and ordinary duties of employment.

Refused  
Henry J. Walters, Jr. Judge

TPD #4

The Court charges the jury that if you are reasonably satisfied from the evidence in the case that the matter, if any, which is misrepresented in the application for insurance coverage increases the risk of loss to an insurer, You should not concern yourselves with the intent or motive of the person making the misrepresentation. That person may be wholly unaware that he is misrepresenting the true facts and may be wholly innocent of any bad motive. If you are reasonably satisfied from the evidence that the risk of loss to the Third Party Defendant was increased by misrepresentations of material facts in the application for the policy sued on, the Third Party Plaintiff would not be entitled to recover regardless of his motive.

Refused  
Henry J. Williams  
Judge

TPD # 5

The Court charges the jury that if you are reasonably satisfied from the evidence in the case that H. C. Gunnison made misrepresentations of material facts in the application for the policy sued upon, and if you are further reasonably satisfied from the evidence that such misrepresentations increased the risk of loss to the Third Party Defendant and were relied on by the Third Party Defendant to its prejudice, the Third Party Plaintiff is not entitled to recover under the policy sued on.

Referred  
H. J. Hestley  
Judge

TPD #6

The Court charges the jury that if you are reasonably satisfied from all of the evidence in the case that a material contributing cause of loss was from sickness or injury which was suffered by the Defendant and Third Party Plaintiff, H. C. Gunnison, and such sickness or injury first became manifest prior to the time insurance coverage was otherwise effective, then you can not return a verdict in favor of the Defendant and Third Party Plaintiff, H. C. Gunnison, and against CUNA Mutual.

Refused  
Ray J. Hunter, Jr.  
Judge



TPD 7


The Court charges the jury that when an employee of a credit union does various acts required to make effective a policy of group insurance, of which credit union members are third party beneficiaries, such as taking statements of insurability and claim forms, the credit union acts for itself and not as the agent of the insurer.

Refused  
W. H. Walters, Jr.  
Judge

DEFENDANT'S REQUESTED CHARGE NO. 1

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE PLAINTIFF, PINTO CREDIT UNION, WAS THE AGENT OF THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, AND THAT PINTO CREDIT UNION, ACTING AS AGENT FOR CUNA MUTUAL INSURANCE SOCIETY, KNEW OR SHOULD HAVE KNOWN, AT THE TIME IT INSURED H. C. GUNNISON, THAT HE WAS SUFFERING FROM PULMONARY EMPHESEMA PRIOR TO THE TIME OF INSURING HIM, THEN YOU MAY FIND THAT THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, WAIVED THE PROVISIONS OF THE INSURANCE POLICY PROVIDING THAT NO RISK AND NO BENEFIT IS PROVIDED FOR ANY LOSS WHICH "FIRST BECOMES MANIFEST PRIOR TO THE TIME INSURANCE COVERAGE IS OTHERWISE EFFECTIVE UNDER THIS CONTRACT."

GIVEN: \_\_\_\_\_ REFUSED:

  
CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 2

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE PLAINTIFF, PINTO CREDIT UNION, WAS THE AGENT OF THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, AND THAT PINTO CREDIT UNION KNEW OR SHOULD HAVE KNOWN, AT THE TIME IT INSURED DEFENDANT, H. C. GUNNISON, ACTING AS AGENT FOR CUNA MUTUAL INSURANCE SOCIETY, THAT H. C. GUNNISON WAS SUFFERING FROM PULMONARY EMPHESEMA PRIOR TO THE TIME OF INSURING H. C. GUNNISON, THEN YOU MAY FIND THAT THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, IS ESTOPPED TO ASSERT AS A DEFENSE THE PROVISIONS OF THE INSURANCE POLICY PROVIDING THAT NO RISK AND NO BENEFIT IS PROVIDED FOR ANY LOSS WHICH "FIRST BECAME MANIFEST PRIOR TO THE TIME INSURANCE COVERAGE IS OTHERWISE EFFECTIVE UNDER THIS CONTRACT."

GIVEN: \_\_\_\_\_ REFUSED:

  
CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 3

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE WHOLE EVIDENCE THAT THE PLAINTIFF, PINTO CREDIT UNION, COLLECTED THE PREMIUM ON THE INSURANCE POLICY IN QUESTION FROM H. C. GUNNISON, AS AGENT FOR THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, THEN YOU MAY FIND THAT PINTO CREDIT UNION WAS ACTING AS AGENT FOR CUNA MUTUAL INSURANCE SOCIETY IN INSURING THE DEFENDANT, H. C. GUNNISON.

GIVEN: \_\_\_\_\_ REFUSED:

  
CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 4

LADIES AND GENTLEMEN OF THE JURY, I CHARGE YOU THAT THE AGENCY RELATIONSHIP BETWEEN THE PLAINTIFF, PINTO CREDIT UNION, AND THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, MAY BE FOUND TO HAVE BEEN CREATED BY ESTOPPEL OR BY APPARENT AUTHORITY. YOU ARE REASONABLY SATISFIED FROM ALL OF THE EVIDENCE THAT ALL OF THE ELEMENTS PERTAINING TO AGENCY BY ESTOPPEL OR APPARENT AUTHORITY, WHICH YOU HAVE BEEN INSTRUCTED UPON BY ME, HAVE BEEN PROVED. IN THIS REGARD, YOU ARE INSTRUCTED THAT AN AGENT'S AUTHORITY IS MEASURED BY THE POWERS WHICH HIS PRINCIPAL HAS CAUSED OR PERMITTED HIM TO SEEM TO POSSESS. AS TO THIRD PERSONS WITHOUT KNOWLEDGE OR NOTICE, IT IS NOT LIMITED TO THE POWERS ACTUALLY CONFERRED AND THOSE TO BE IMPLIED AS FLOWING THEREFROM, BUT INCLUDES AS WELL THE APPARENT POWERS WHICH THE PRINCIPAL BY REASON OF HIS CONDUCT IS ESTOPPED TO DENY. SUCH APPARENT AUTHORITY IS THE REAL AUTHORITY SO FAR AS AFFECTS THE RIGHTS OF A THIRD PARTY WITHOUT KNOWLEDGE OR NOTICE.

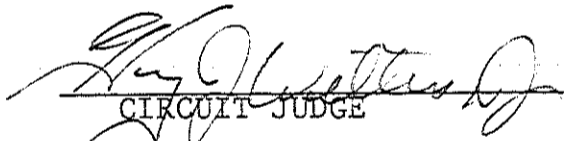
GIVEN: \_\_\_\_\_ REFUSED:

  
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CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 5

LADIES AND GENTLEMEN OF THE JURY, I CHARGE YOU THAT INSTRUCTIONS BY THE PRINCIPAL IN THIS CASE, CUNA MUTUAL INSURANCE SOCIETY, WHICH CONFLICT WITH THE APPARENT POWER OF THE AGENT, PINTO CREDIT UNION, WILL NOT AFFECT THE RIGHTS OF THIRD PARTIES WHO DEAL IN GOOD FAITH WITH THE AGENT.

GIVEN: \_\_\_\_\_ REFUSED:

  
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CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 6

APPARENT AUTHORITY, FOR WHICH A PRINCIPAL IS RESPONSIBLE TO A THIRD PARTY FOR THE ACT OF HIS AGENT, IS THAT AUTHORITY WHICH ARISES WHEN THE PRINCIPAL, BY HIS ACTS, WORDS, OR CONDUCT, REASONABLY INTERPRETED, CAUSES SUCH THIRD PARTY TO BELIEVE THAT AUTHORITY HAD BEEN GIVEN TO AN AGENT TO ACT IN ITS BEHALF AND SUCH AUTHORITY CANNOT BE ESTABLISHED SOLELY BY THE ACTS OF THE AGENT.

GIVEN: \_\_\_\_\_ REFUSED:

  
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CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 7

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE PLAINTIFF, PINTO CREDIT UNION, WAS THE AGENT OF THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, THEN YOU ARE INSTRUCTED THAT ANY INSTRUCTIONS FROM CUNA MUTUAL INSURANCE SOCIETY TO PINTO CREDIT UNION WHICH WERE UNKNOWN TO THE DEFENDANT, H. C. GUNNISON, WOULD NOT BE BINDING UPON H. C. GUNNISON.

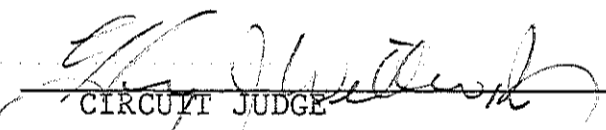
GIVEN: \_\_\_\_\_ REFUSED:

  
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CIRCUIT JUDGE

DEFENDANT'S REQUESTED CHARGE NO. 8

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE PLAINTIFF, PINTO CREDIT UNION, HAD APPARENT AUTHORITY TO BIND THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, REGARDLESS OF THE PRE-EXISTING PHYSICAL CONDITION OF H. C. GUNNISON, THEN YOU SHOULD FIND FOR THE DEFENDANT, H. C. GUNNISON, AGAINST THE THIRD PARTY DEFENDANT, CUNA MUTUAL INSURANCE SOCIETY, ON THE THIRD PARTY COMPLAINT OF H. C. GUNNISON.

GIVEN: \_\_\_\_\_ REFUSED:

  
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CIRCUIT JUDGE