

PLAINTIFF'S CHARGE NUMBERED 1

I charge you members of the jury that where an agent of an insurance company having real or apparent authority to receive an application for insurance is truly informed by the assured of the facts relating to the risk, but the agent incorrectly states them in a written application for insurance prepared by him and without the knowledge or consent of the assured, the insurance company is estopped from insisting upon a forfeiture of the policy issued upon such application on account of such statement, and I further charge you that if you believe from the evidence to your reasonable satisfaction that the decedent, Windell Lindsey, did, in fact, inform Glen Stewart, the agent for the Defendant, of the fact that he had consulted a doctor within the previous five years and that Glen Stewart incorrectly stated such facts in the written application for insurance prepared by him and without the knowledge and consent of the said Windell Lindsey, the Defendant is estopped from insisting upon a forfeiture of the policy issued upon such application on account of such statement.

*Refused William J. Judge*

PLAINTIFF'S CHARGE NUMBERED 2

I charge you members of the jury that the term "disease" as used in rule permitting insurer to avoid life policy because insured was afflicted with disease at time of issuance of the policy, means a serious illness which has impaired the constitution and left in its wake some organic or chronic effect undermining the general health of the insured.

*Walter J. [unclear]*

PLAINTIFF'S CHARGE NUMBERED 3

The Court charges the jury that to sustain the position of the Defendant in this case, the Defendant has the burden of showing that Windell Lindsey was afflicted with the diseases claimed and that they were serious and such to affect the general soundness of his health.

*Robert A. Walters*

PLAINTIFF'S CHARGE NUMBERED 4

The Court charges the jury that a material risk is any previous affection which might reasonably be considered a menace to the prolongation of the life of the insured and that had it been revealed, the application would have been rejected.

*Robert G. Walter*  
*Attorney*

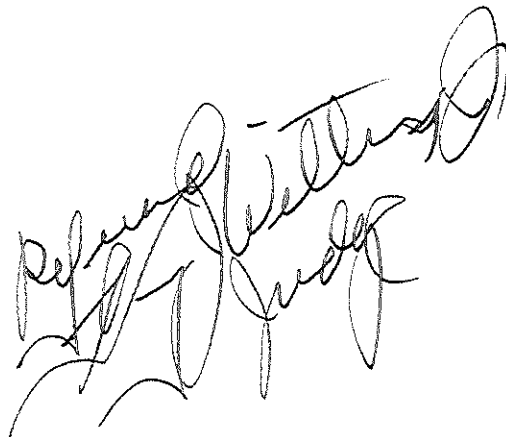
PLAINTIFF'S CHARGE NUMBERED 5

I charge you that unless you believe from the evidence to your reasonable satisfaction that the insured made the alleged misrepresentations complained of by the Defendant with the actual intent to deceive, then you cannot consider such misrepresentations, unless the risk of loss was thereby increased.

*Refused by Walter J*

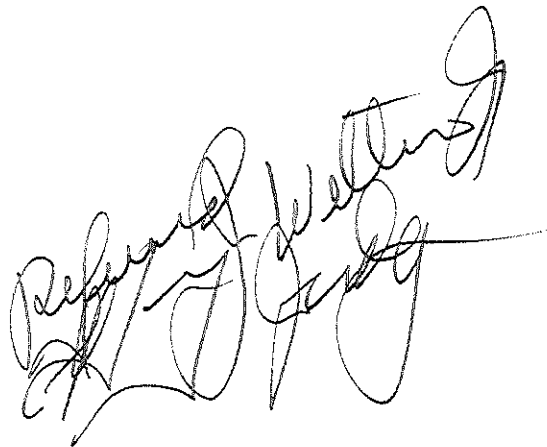
PLAINTIFF'S CHARGE NUMBERED 6

I charge you members of the jury that where an agent of an insurance company having real or apparent authority to receive an application for insurance is truly informed by the assured of the facts relating to the risk, but the agent incorrectly states them in a written application for insurance prepared by him and without the knowledge or consent of the assured, the insurance company is estopped from insisting upon a forfeiture of the policy issued upon such application on account of such statement.

A handwritten signature in cursive script, appearing to read "Pelham H. [unclear]". The signature is written in dark ink and is slanted upwards to the right.

PLAINTIFF'S CHARGE NUMBERED 7

The Court charges the jury that an insurance policy is not avoided if the insurer knows the true facts or the falsity of the statements or has sufficient indication that would put a prudent person on notice so as to induce an inquiry which, if done with reasonable thoroughness, would reveal the truth

A handwritten signature in black ink, appearing to read "Richard J. Walters". The signature is written in a cursive style with a long horizontal line extending to the right.

PLAINTIFF'S CHARGE NUMBERED 8

The Court charges the jury that diabetes is not recognized as a serious disease as a matter of law and the burden of proof is on the Defendant to show not only that a misrepresentation was made but that had it known that the insured was diabetic, that it would not have issued the policy.

Refused  
W. H. Wilson  
Judge



PLAINTIFF'S CHARGE NUMBERED 9

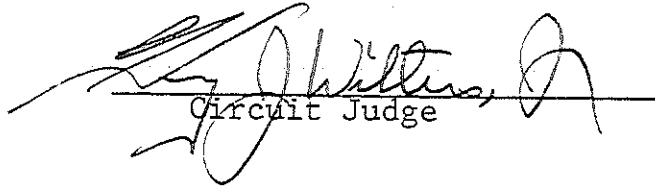
The Court charges the jury that diabetes is not recognized as a serious disease as a matter of law and the burden of proof is on the Defendant to show not only that a misrepresentation was made but that had it known that the insured was diabetic, that it would not have issued the policy and if you are reasonably satisfied from the evidence in this case that the Defendant would have issued the policy to the insured, Windell Lindsey, if it had known of his diabetic condition, then in such event, you cannot return a verdict for the Defendant.

*Referred to*  
*Walter J. Judge*

DEFENDANT'S REQUESTED CHARGE NO. 1

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE IN THIS CASE THAT THE INSURED, MR. WENDELL LINDSEY, MADE FALSE MISREPRESENTATIONS TO THE AGENT OF THE DEFENDANT IN THE APPLICATION FOR INSURANCE, AND THAT SAID FALSE MISREPRESENTATIONS MATERIALLY INCREASED THE RISK OF LOSS TO THE DEFENDANT AND THAT THE DEFENDANT RELIED UPON SAID FALSE MISREPRESENTATIONS TO ITS PREJUDICE, THEN THE INSURED WAS GUILTY OF FRAUD AND YOUR VERDICT SHOULD BE FOR THE DEFENDANT.

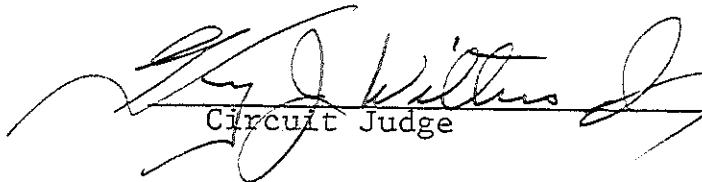
GIVEN \_\_\_\_\_ REFUSED

  
Circuit Judge

DEFENDANT'S REQUESTED CHARGE NO. 2

LADIES AND GENTLEMEN OF THE JURY, IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE IN THIS CASE THAT THE INSURED, MR. WENDELL LINDSEY, MADE FALSE MISREPRESENTATIONS TO THE AGENT OF THE DEFENDANT IN THE APPLICATION FOR INSURANCE, EVEN THOUGH THE INSURED HAD NO INTENT TO DECEIVE THE DEFENDANT, BUT SAID FALSE MISREPRESENTATIONS MATERIALLY INCREASED THE RISK OF LOSS TO THE DEFENDANT AND THE DEFENDANT RELIED ON SAID FALSE MISREPRESENTATIONS TO ITS PREJUDICE, THEN THE INSURED WAS GUILTY OF FRAUD AND YOUR VERDICT SHOULD BE FOR THE DEFENDANT.

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

  
Circuit Judge