

2148

AMENDED SUMMONS AND COMPLAINT

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons the INDEPENDENT LIFE AND ACCIDENT INSURANCE COMPANY OF JACKSONVILLE, FLORIDA, by serving a copy of this writ on H. A. Longshore, the Superintendent of Insurance for the State of Alabama, 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 CHARLIE HATHINGTON.

WITNESS my hand, this 21st day of April, 1954.

Archie J. ...
Clerk

CHARLIE HATHINGTON

PLAINTIFF

VS

THE INDEPENDENT LIFE AND
ACCIDENT INSURANCE COMPANY
OF JACKSONVILLE, FLORIDA,

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
AT LAW

The Plaintiff claims of the Defendant ONE THOUSAND (\$1000.00) DOLLARS with interest due on a policy whereby the Defendant on to-wit, September 6, 1952, insured the life of the Plaintiff for accidental death for the sum of Two Thousand (\$2000.00) Dollars, and in said policy agreed to pay the Plaintiff the sum of One Thousand (\$1000.00) Dollars, if Plaintiff suffered the loss of one eye resulting from an accident, provided such loss occurred within ninety days from such accident. The Plaintiff avers that while said policy was in force and effect the Plaintiff suffered the loss of one eye which was the result of an accident and within ninety days from the accident; of which the Defendant had written notice, and the Plaintiff has failed and refused to pay, as it promised to do, the sum of ONE THOUSAND (\$1000.00) DOLLARS and said policy is the property of the Plaintiff; Wherefore he sues.

WILTERS & BRANTLEY

BY: *Albert M Brantley*
Attorney for the Plaintiff

The Plaintiff demands a trial by jury.

WILTERS & BRANTLEY

BY: *Albert M Brantley*
Attorney for the Plaintiff

644

Montgomery, Ala
Serge: H.A. Longshore
no 2148

Original

RECEIVED IN OFFICE
MAY 7 1954
G. A. MOSLEY, Sheriff

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

James Earl Ray

FILED
APR 27 1954
ALICE L. DUCK, Clerk

EXECUTED BY SERVING 2
COPIES OF THE WITHIN
H.A. Longshore
Comm. of Ins. of
State of Ala.
5-7-54

G.A. Mosley
Sheriff Montgomery County
By *Mathis & Stearns*
Deputy Sheriff

No. 2148

610
RECEIVED IN OFFICE
APR 28 1954
G. A. MOSLEY, Sheriff

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[Faint, illegible text]

[Faint, illegible text]

EXECUTED BY SERVING 2
COPIES OF THE WITHIN
W. A. Longshore
Comm. of Ins. of
State of Ala.
4-28-54

G. A. Mosley
Sheriff Montgomery County
By Mathew Stearns
Deputy Sheriff

Filed
12-14-54
Alicia J. Clark

Received in Sheriff's Office
this 14 day of Dec, 1953
TAYLOR WILKINS, Sheriff

NO 2148

CHARLIE HATHINGTON

PLAINTIFF

VS

THE INDEPENDENT LIFE AND
ACCIDENT INSURANCE COMPANY
OF JACKSONVILLE, FLORIDA

DEFENDANT

BILL OF COMPLAINT

FILED
DEC 14 1953
ALICE L. DUCK, Clerk

Returned 1 day of July 57
not found in my county after diligent search and in-
quiry.

Taylor Wilkins, Sheriff
TAYLOR WILKINS
Deputy Sheriff

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CHARLIE HATHINGTON,

Plaintiff,

vs.

THE INDEPENDENT LIFE &
ACCIDENT INSURANCE COMPANY,

Defendant.

¶

¶

¶ IN THE CIRCUIT COURT OF

¶ BALDWIN COUNTY, ALABAMA

¶ AT LAW NO. 2148

¶

Comes now the Defendant in the above styled cause, by its Attorneys, and respectfully moves this Honorable Court to enter an order of continuance in the above styled cause which has been set for trial on September 15, 1954, and as grounds for this motion respectfully represents and shows unto this Honorable Court as follows:

1. That the Defendant had a subpoena issued for one Robert Washington on September 3, 1954, by the Clerk of the Circuit Court of Baldwin County, Alabama, and said subpoena was returned to the said Clerk of the Circuit Court of Baldwin County, Alabama, marked "not found in my County", and signed by Taylor Wilkins, Sheriff of Baldwin County, Alabama. That the said Robert Washington is a material and competent witness for the Defendant in this cause and the evidence which he is expected to give in the same will be material and competent and there is a probability that the testimony can be obtained at a future date to which the cause may be continued or postponed through the service upon him of interrogatories propounded by the Defendant to him on the ground that he resides out of the State of Alabama, which the said Defendant is informed and believes is true, and that he presently resides in Chicago, Illinois, according to the information available to the counsel for the Defendant. That this cause was placed on the docket of this Honorable Court and set for trial on the above date approximately thirty (30) days ago, to-wit; August 14, 1954, and due diligence has been exercised by the counsel for the Defendant to secure the absent witness and the evidence to be presented by his testimony in that the counsel for the

Defendant did not learn that the said Robert Washington had left the State of Alabama until such time as would have made it impossible to have propounded interrogatories to him and to have secured the issuance of a commission to take such testimony after due notice to the Plaintiff or his attorneys before the date set for the trial of this case. The evidence expected to be elicited from this witness would not and is not merely cumulative or impeaching and this motion is not made for the purpose of delaying the trial of this cause. That said witness is expected to testify to facts which will bring this case within an exception in the accident policy sued on and this Defendant cannot properly defend this litigation nor can its counsel adequately represent said Defendant without the benefit of said testimony.

Respectfully submitted,

H. T. FITZPATRICK, JR.

and

CHASON & STONE

By: 

Filed 9/15/14
10/1/14
Judge

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon THE INDEPENDENT LIFE AND ACCIDENT INSURANCE COMPANY OF JACKSONVILLE, FLORIDA, 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 CHARLIE HATHINGTON.

WITNESS my hand, this _____ day of December, 1953.

Clerk

CHARLIE HATHINGTON
vs
THE INDEPENDENT LIFE AND ACCIDENT INSURANCE COMPANY OF JACKSONVILLE, FLORIDA
PLAINTIFF
vs
DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
AT LAW

FILED
DEC 17 1953
CLERK

200-1-12-1

1.

The Plaintiff claims of the Defendant ONE THOUSAND (\$1000.00) DOLLARS with interest due on a policy whereby the Defendant on to-wit, September 6, 1952, insured the life of the Plaintiff for accidental death for the sum of Two Thousand (\$2000.00) Dollars, and in said policy agreed to pay the Plaintiff the sum of One Thousand (\$1000.00) Dollars, if Plaintiff suffered the loss of one eye resulting from an accident, provided such loss occurred within ninety days from such accident. The Plaintiff avers that while said policy was in force and effect the Plaintiff suffered the loss of one eye which was the result of an accident and within ninety days from the accident; of which the Defendant had written notice, and the Plaintiff has failed and refused to pay, as it promised to do, the sum of ONE THOUSAND (\$1000.00) DOLLARS and said policy is the property of the Plaintiff; Wherefore he sues.

WILTERS & BRANTLEY

BY: Robert M Brantley
Attorney for the Plaintiff

The Plaintiff demands a trial by jury.

WILTERS & BRANTLEY

BY: Robert M Brantley
Attorney for the Plaintiff

APPROVED FOR THE PLAINTIFF
BY: *Edward M. Lawrence*
ATTORNEY & SHERIFF

The Plaintiff desires a trial by jury.

FORWARDED FOR THE PLAINTIFF
BY: *Edward M. Lawrence*
ATTORNEY & SHERIFF

DOLLARS and said policy is the property of the Plaintiff; therefore he was re-
quired to pay, as it promised to do, the sum of ONE THOUSAND (\$1000.00)
of which the Defendant had written notice, and the Plaintiff has relied and
which was the result of an accident and which would have been from the accident;
policy was in force and effect the Plaintiff suffered the loss of one eye
within ninetydays from such accident. The Plaintiff says that while said
the loss of one eye resulting from an accident, provided such loss occurred
insuring the sum of one thousand (\$1000.00) Dollars, the Plaintiff suffered
of two thousand (\$2000.00) Dollars, and in said policy agreed to pay the
1925, insured the life of the Plaintiff for accidental death for the sum
with interest due on a policy whereby the Defendant on to-wit, September 9,
The Plaintiff claims of the Defendant ONE THOUSAND (\$1000.00) DOLLARS

I.

DEFENDANT

OF JACKSONVILLE
ACCIDENT INSURANCE COMPANY
THE INDEPENDENT LIFE AND
OF JACKSONVILLE, FLORIDA
PLAINTIFF
THE INDEPENDENT LIFE AND
ACCIDENT INSURANCE COMPANY
OF JACKSONVILLE, FLORIDA
DEFENDANT

BILL OF COMPLAINT

FILED
DEC 14 1958
ALICE L. BUCK, Clerk

WITNESSES my hand, this 9th day of December, 1925.

COMPLAINT OF CHARLIE HATHINGTON.
county of the place of holding the same, then and there to answer the
from the service of this writ in the Circuit Court, to be held for said
INSURANCE COMPANY OF JACKSONVILLE, FLORIDA, to return within thirty days
You are hereby commanded to answer THE INTERMENT THAT AND ACCIDENT

TO WEA SHEPHERD OF THE STATE OF VIRGINIA;
BATHING COUNTY
STATE OF VIRGINIA

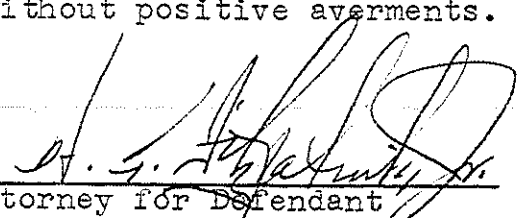
NO 2148

CHARLIE HATHINGTON |
 |
PLAINTIFF |
 |
VS. |
 |
THE INDEPENDENT LIFE AND |
ACCIDENT INSURANCE COMPANY, |
a Corp., of Jacksonville, Fla. |
 |
DEFENDANT |

IN THE CIRCUIT COURT
OF BALDWIN COUNTY
AT LAW

Now comes the defendant in the above styled cause and demurs to the complaint, and to the complaint as last amended, filed in this cause, and as grounds there for, assigns the following:

1. The complaint consists of conclusions of the pleader.
2. The complaint does not state a cause of action.
3. The allegation that "Plaintiff suffered the loss of one eye which was the result of an accident" is a conclusion of the pleader and no facts are alleged in support thereof.
4. The allegation regarding Plaintiff's accidental loss of an eye is made by indirection and without positive averments.



Attorney for Defendant

E. T. FITZPATRICK, JR.,
Attorney at Law
1019-21 Bell Building
Montgomery 4, Ala.

no 2148

FILED

MAY 21 1954

ALICE J. DUCK, Clerk

CHARLIE HATHINGTON

PLAINTIFF

VS.

THE INDEPENDENT LIFE AND
ACCIDENT INSURANCE COMPANY,
a Corp., of Jacksonville, Fla.

DEFENDANT

IN THE CIRCUIT COURT

OF BALDWIN COUNTY

AT LAW

NO. 2148

Comes the defendant and for answer to the complaint in this cause, and to each and every count thereof, seperately and severally, pleads in short by consent, the general issue, with leave to give in evidence matters which if well pleaded would be admissible in defense of the action, to have effect as if so pleaded, and with leave to the plaintiff to give in evidence any matter which if well pleaded would be admissible in replying to such defensive matter; and to have effect as if so pleaded.


Attorney for Defendant

2148

MISSOURI
STATE ARCHIVES
JULY 1954

MISSOURI
STATE ARCHIVES
JULY 1954

FILED
JUN 23 1954
ALICE A. DUCK, Clerk



H. T. FITZPATRICK, JR.
ATTORNEY AT LAW
1019-1021 BELL BUILDING
MONTGOMERY, ALABAMA
TELEPHONE 3-5649

May 20, 1954

Clerk of the Circuit Court
Courthouse
Bay Minette, Alabama

Re: Hathington vs Independent Life &
Accident Ins. Co. #2148

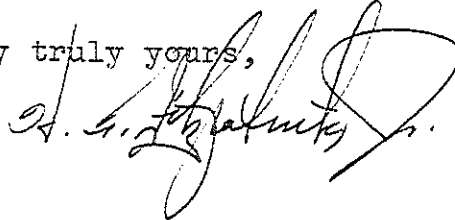
Dear Sir:

We enclose demur^{er} to be filed in your office on behalf of
defendant in the above styled cause.

We would appreciate your acknowledging that same has been
received and filed.

We would also appreciate your giving us some idea as to
when the next call of the Civil Jury Docket will be, and if
pleadings are settled in this circuit before that time.

Very truly yours,



HTFjr/fj

Enc.

cc/Wilters & Brantley

H. T. FITZPATRICK, JR.
ATTORNEY AT LAW
1019-1021 BELL BUILDING
MONTGOMERY, ALABAMA
TELEPHONE 3-5649

June 22, 1954

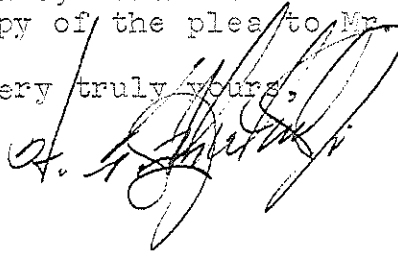
Mrs. Alice J. Duck
Clerk of the Circuit Court
Courthouse
Bay Minette, Alabama

Re: Hathington Vs.
Independent Life & Accident Ins. Co.
No. 2148

Dear Mrs. Duck:

We enclose defendant's plea of the general issue in short by consent in the above-styled cause, which we would appreciate your filing. We are sending a copy of the plea to Mr. Brantley.

Very truly yours,



HTFjr/fj

Enc.

cc: Mr. Tolbert M. Brantley
Wilters & Brantley
Attorneys at Law
Bay Minette, Alabama

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2148

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Handwritten text, possibly a date and location, located in the lower right section of the page.