CHASON & UNDERWOOD

Attorneys at Law

CECIL G. CHASON
THOMAS W. UNDERWOOD, JR.

P. O. DRAWER 458
216 W. LAUREL AVENUE
FOLEY, ALABAMA 36535
PHONE 205/943-3171

April 12, 1972

Hon. Telfair J. Mashburn
Judge of the Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

Re: Walter R. Nelson and Gladys vs.
Baldwin Mutual Insurance Company
Case Number 9560

Dear Judge:

Walter Lindsey has informed me that he has now delivered to the Court copies of the arbitrators report. I am, therefore, enclosing a suggested judgment and a check of Baldwin Mutual Insurance Company in payment of the award. If this judgment meets with your approval, the Clerk can show the judgment satisfied on her records and send us a statement for one-half of the costs. The statement for the remaining costs should be sent to Mrs. Nesbit by the Clerk.

Yours very truly,

C. G. Chason

CGC/vd
Enc.

cc: Mrs. Phyllis Nesbit
Mrs. Eunice Blackmon

CECIL G. CHASON

Attorney at Law

THOMAS W. UNDERWOOD, JR.
ASSOCIATE

P. O. DRAWER 458
216 W. LAUREL AVENUE
FOLEY, ALABAMA 36535
PHONE 205/943-3171

December 11, 1970

Mrs. Alice J. Duck
Clerk of Court
Bay Minette, Alabama 36507

Re: Nelson vs. Baldwin Mutual Insurance Company Case No. 9560

Dear Mrs. Duck:

Enclosed is Plea in the above styled cause. A copy has been sent to Mrs. Nesbit.

Yours very truly,

C. G. Chason

CGC:jc

Encl.

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,
vs.	)	AT LAW
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NUMBER 9560

DECREE

This cause coming on to be heard on bill of complaint, plea setting out prior agreement for arbitration, order and decree submitting the cause to arbitration and appointing and designating an umpire, and report of arbitrators, and the Court being satisfied of the reasonableness of the award made and certified by the arbitrators appointed by each of the respective parties and the umpire appointed by the court, and all having agreed as to the extent of the loss and award, it is, therefore,

ORDERED, ADJUDGED and DECREED by the court that the defendant, BALDWIN MUTUAL INSURANCE COMPANY, shall pay to the Plaintiffs, WALTER R. NELSON and GLADYS R. NELSON, the sum of Three Thousand, Three Hundred Twenty-seven Dollars ($3,327.00) as full satisfaction in settlement of the claim of the Plaintiffs against the Defendant, all as set out in the bill of complaint.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that each party shall pay their own arbitrator and that the remaining costs, which shall include a fee of $_____ for WALTER LINDSEY, the umpire appointed by this Court, be paid equally one-half by the Defendant and one-half by the Plaintiffs, for all of which let execution issue.

DONE this the _____ day of _____, 1972.

_____
Judge, 28th Judicial Circuit

WALTER R. NELSON and GLADYS NELSON,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA,
Plaintiffs,	)	AT LAW
vs.	)	
BALDWIN MUTUAL INSURANCE COMPANY,	)	
Defendant.	)	CASE NUMBER 9560

The undersigned, WALTER LINDSEY, ALEX LENNICX and WILLIAM G. SANDERS, having been heretofore appointed by this Honorable Court as arbitrators in the above styled cause, and having, in accordance with said order, determined the value of the loss suffered by the said WALTER R. NELSON and GLADYS NELSON to their real and personal property by fire on, to-wit, the 13th day of June, 1969, which said premises and property were insured under a policy of insurance with BALDWIN MUTUAL INSURANCE COMPANY, and said arbitrators having unanimously agreed upon the loss of the said WALTER R. NELSON and GLADYS NELSON, this award is hereby made as follows:

Value of loss to real property	$2,327.00
Value of loss of personal property	$1,000.00
Total value of loss	$3,327.00.

Walter Lindsey
WALTER LINDSEY

Alex Lennicx
ALEX LENNICX

William G. Sanders
WILLIAM G. SANDERS

I, WALTER LINDSEY, hereby certify that a copy of the foregoing report has on this the 10 day of April, 1972, been delivered to the Honorable Telfair J. Mashburn and a copy sent, United States Mail, postage prepaid, to Phyllis S. Nesbit, Attorney at Law, Robertsdale, Alabama, as attorney for Walter R. Nelson and Gladys Nelson, and C. G. Chason, Attorney at Law, Foley, Alabama, as attorney for Baldwin Mutual Insurance Company.

Walter Lindsey

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
vs.	)	
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NUMBER 9560

The undersigned, WALTER LINDSEY, ALEX LENNICX and WILLIAM G. SANDERS, having been heretofore appointed by this Honorable Court as arbitrators in the above styled cause, and having, in accordance with said order, determined the value of the loss suffered by the said WALTER R. NELSON and GLADYS NELSON to their real and personal property by fire on, to-wit, the 13th day of June, 1969, which said premises and property were insured under a policy of insurance with BALDWIN MUTUAL INSURANCE COMPANY, and said arbitrators having unanimously agreed upon the loss of the said WALTER R. NELSON and GLADYS NELSON, this award is hereby made as follows:

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Total value of loss	$3,327.00.

Walter Lindsey
WALTER LINDSEY

Alex Lennicx
ALEX LENNICX

William G. Sanders
WILLIAM G. SANDERS

I, WALTER LINDSEY, hereby certify that a copy of the foregoing report has on this the 10 day of April, 1972, been delivered to the Honorable Telfair J. Mashburn and a copy sent, United States Mail, postage prepaid, to Phyllis S. Nesbit, Attorney at Law, Robertsdale, Alabama, as attorney for Walter R. Nelson and Gladys Nelson, and C. G. Chason, Attorney at Law, Foley, Alabama, as attorney for Baldwin Mutual Insurance Company.

Walter Lindsey

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
vs.	)	
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NUMBER 9560

The undersigned, WALTER LINDSEY, ALEX LENNICX and WILLIAM G. SANDERS, having been heretofore appointed by this Honorable Court as arbitrators in the above styled cause, and having, in accordance with said order, determined the value of the loss suffered by the said WALTER R. NELSON and GLADYS NELSON to their real and personal property by fire on, to-wit, the 13th day of June, 1969, which said premises and property were insured under a policy of insurance with BALDWIN MUTUAL INSURANCE COMPANY, and said arbitrators having unanimously agreed upon the loss of the said WALTER R. NELSON and GLADYS NELSON, this award is hereby made as follows:

Value of loss to real property	$2,327.00
Value of loss of personal property	$1,000.00
Total value of loss	$3,327.00.

Walter Lindsey
WALTER LINDSEY

Alex Lennicx
ALEX LENNICX

William G. Sanders
WILLIAM G. SANDERS

I, WALTER LINDSEY, hereby certify that a copy of the foregoing report has on this the 10 day of April, 1972, been delivered to the Honorable Telfair J. Mashburn and a copy sent, United States Mail, postage prepaid, to Phyllis S. Nesbit, Attorney at Law, Robertsdale, Alabama, as attorney for Walter R. Nelson and Gladys Nelson, and C. G. Chason, Attorney at Law, Foley, Alabama, as attorney for Baldwin Mutual Insurance Company.

Walter Lindsey

WALTER R. NELSON and GLADYS NELSON,	)	
Plaintiffs,	)	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA
BALDWIN MUTUAL INSURANCE COMPANY,	)	AT LAW
Defendant.	)	CASE NO. 9560

PLEA

Comes the Defendant in the above styled cause and appearing solely and specially for the purpose of filing this plea and for no other purpose shows unto this Honorable Court the following:

1. That the contract or policy of insurance on which this action is based specifically provides that suit or action must be commenced within twelve months next after inception of the loss. As is shown by the Complaint, the loss occurred on, to-wit, July 13, 1969, and summons and complaint was not issued until the 19th day of November, 1970; hence, said proceeding is barred and should not be allowed to proceed.

2. Defendant further shows that the contract or policy of insurance on which this action is based contains the following provisions:

> "In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.
>
> "No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss."

Defendant further shows that the Plaintiffs and the Defendant

agreed to an appraisal and arbitration of this claim and that the Plaintiffs appointed Alex Lennicx as an appraiser, and that the Defendant appointed William G. Sanders as an appraiser and that the two appraisers have viewed the property, but have failed to agree on the actual cash value or the amount of loss. They have also failed to select and appoint an umpire, as provided in said policy. Defendant therefore shows that the contract or policy of insurance specifically providing for appraisal and settlement by arbitration and the Plaintiffs and the Defendant having submitted to arbitration, that the Plaintiffs are barred from filing this suit or action. Defendant further shows that Plaintiffs should be barred from proceeding under the contract requirement and agreement as set out in paragraph 1 of this plea, but in the event the Court determines that the Plaintiffs have a right to proceed, Defendant requests that the Judge of this Honorable Court select an umpire and notify the parties of the selection of the umpire and require each to submit to the umpire their differences.

C. G. Chason
Attorney for Defendant

STATE OF ALABAMA
BALDWIN COUNTY

Before me, Virginia Dodd, a Notary Public in and for said County in said State, personally appeared C. G. Chason, who is known to me and who, after being by me first duly and legally sworn, deposes and says that he is the attorney for the Defendant in the above styled cause and as such is authorized to make this statement and that the matters and facts set out in the foregoing plea are true.

C. G. Chason

Sworn to and subscribed before me this
8th day of December, 1970.

Virginia Dodd
Notary Public, ~~Baldwin County~~, Alabama
at Large

FILED
DEC 15 1970
ALICE J. BUCK CLERK REGISTER

C. G. C.

I hereby certify that I have this day mailed a copy of the foregoing Plea to Mrs. Phyllis Nesbit, attorney for the Plaintiff, by United Stated Mail, postage prepaid, on this the 14 day of December, 1970.

C. G. C.

WALTER R. NELSON and GLADYS NELSON	I	IN THE CIRCUIT COURT OF
Plaintiffs		BALDWIN COUNTY, ALABAMA
VS.	I	AT LAW
BALDWIN MUTUAL INSURANCE COMPANY		CASE NO. 9560
Defendant	I	

1.

The Plaintiffs claim of the Defendant the sum of SEVEN THOUSAND FIVE HUNDRED DOLLARS ($7,500.00), the value of a dwelling house and contents which the Defendant on the 5th day of October, 1966, insured against loss or injury, fire or other perils for the term of 3 years, which house and contents were damaged by fire on the 13th day of July, 1969, on which the Defendant has had notice.

WILTERS, BRANTLEY & NESBIT

BY: Stephen S. Nesbit
Attorney for Plaintiffs

FILED
NOV 19 1970
ALICE J. DUCK CLERK REGISTER

Service accepted on behalf of Baldwin Mutual Insurance Company

[illegible]
Attorney

VOL 68 PAGE 324

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No.....

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Baldwin Mutual Insurance Company

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette against.....

Baldwin Mutual Insurance Company ... Defendant.....

by Walter R. Nelson and Gladys Nelson

..... Plaintiff.....

Witness my hand this 19 day of Nov 19 70

Alice J. Duck Clerk

No. 9560 Page.....

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

Walter R. Nelson and

Gladys Nelson

Plaintiffs

vs.

Baldwin Mutual Ins. Company,

Defendants

SUMMONS AND COMPLAINT

Filed ..... FILED ..... 19.....

..... Clerk

NOV 19 1970

ALICE J. DUCK CLERK REGISTER

WILTERS, BRANTLEY & NESBIT

BY:

Plaintiff's Attorney

Defendant's Attorney

Defendant ~~lives at~~ place of business is located in Foley, Alabama

Recieved In Office

..... 19.....

..... Sheriff

I have executed this summons

this ..... 19.....

by leaving a copy with

..... Sheriff

..... Deputy Sheriff

Moore Printing Co. - Bay Minette, Ala.

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
vs.	)	
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NUMBER 9560

The undersigned, WALTER LINDSEY, ALEX LENNICX and WILLIAM G. SANDERS, having been heretofore appointed by this Honorable Court as arbitrators in the above styled cause, and having, in accordance with said order, determined the value of the loss suffered by the said WALTER R. NELSON and GLADYS NELSON to their real and personal property by fire on, to-wit, the 13th day of June, 1969, which said premises and property were insured under a policy of insurance with BALDWIN MUTUAL INSURANCE COMPANY, and said arbitrators having unanimously agreed upon the loss of the said WALTER R. NELSON and GLADYS NELSON, this award is hereby made as follows:

Value of loss to real property	$2,327.00
Value of loss of personal property	$1,000.00
Total value of loss	$3,327.00.

Walter Lindsey
WALTER LINDSEY

Alex Lennicx
ALEX LENNICX

William G. Sanders
WILLIAM G. SANDERS

I, WALTER LINDSEY, hereby certify that a copy of the foregoing report has on this the 10 day of April, 1972, been delivered to the Honorable Telfair J. Mashburn and a copy sent, United States Mail, postage prepaid, to Phyllis S. Nesbit, Attorney at Law, Robertsdale, Alabama, as attorney for Walter R. Nelson and Gladys Nelson, and C. G. Chason, Attorney at Law, Foley, Alabama, as attorney for Baldwin Mutual Insurance Company.

Walter Lindsey

C & U

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
vs.	)	
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NO. 9560

ORDER

The Plea in the above styled cause having been argued in open court by the attorney for the Plaintiffs and the attorney for the Defendant, and the Court having heard said argument and having examined said Plea,

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED as follows:

1. That there is no merit in Paragraph 1 of the Plea showing that the suit or action should be barred, not having been commenced within twelve months, and Paragraph 1 of said Plea is denied.

2. The Court finds that there is merit in Paragraph 2 of said Plea and that the Defendant is entitled to have arbitration, which was begun in this case, continued.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED by the Court that the Defendant and the Plaintiffs, having submitted to arbitration, that the Plaintiffs are barred from proceeding with a suit or action pending continuation of the arbitration, according to the terms of the policy of insurance as set out in said Plea.

The Court being further satisfied that the appraisers appointed by the parties have failed to agree, and have failed to agree upon an umpire, and the Court being satisfied that the terms of the policy involved provided that at the request of either party an umpire shall be selected by a judge of a court of record in the state in which the property covered by the policy is located, and the Defendant having petitioned this Court for the appointment of an umpire,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court That WALTER LINDSEY of Bay Minette, Alabama, be and he is hereby appointed and designated to act as umpire in the arbitration between the parties to this cause. IT IS FURTHER ORDERED, ADJUDGED

C. G. C.

by the Court that the said umpire shall be paid equally by the parties to this cause for his services and expenses as such umpire

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the appraisers appointed by each of the parties to this cause submit their differences to the umpire for determination. IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that an award setting out the actual cash value of the loss of any two who shall agree shall be filed with this Court, and if no two can agree, such disagreement shall be certified to this court itemizing only the items on which no two can agree and certifying the cash value of any items when two or more have agreed.

DONE this the 7th day of May, 1971.

Delair J. Mashburne
Judge, 28th Judicial Circuit

C. G. C.

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Page 27

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,
vs.	)	AT LAW
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NUMBER 9560

DECREE

This cause coming on to be heard on bill of complaint, plea setting out prior agreement for arbitration, order and decree submitting the cause to arbitration and appointing and designating an umpire, and report of arbitrators, and the Court being satisfied of the reasonableness of the award made and certified by the arbitrators appointed by each of the respective parties and the umpire appointed by the court, and all having agreed as to the extent of the loss and award, it is, therefore,

ORDERED, ADJUDGED and DECREED by the court that the defendant, BALDWIN MUTUAL INSURANCE COMPANY, shall pay to the Plaintiffs, WALTER R. NELSON and GLADYS R. NELSON, the sum of Three Thousand, Three Hundred Twenty-seven Dollars ($3,327.00) as full satisfaction in settlement of the claim of the Plaintiffs against the Defendant, all as set out in the bill of complaint.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that each party shall pay their own arbitrator and that the remaining costs, which shall include a fee of $50.00 for WALTER LINDSEY, the umpire appointed by this Court, be paid equally one-half by the Defendant and one-half by the Plaintiffs, for all of which let execution issue.

DONE this the 18th day of April, 1972.

Julius A. Marlebourn
Judge, 28th Judicial Circuit

C & U

WALTER R. NELSON and GLADYS NELSON, Plaintiffs,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AT LAW
vs.	)	
BALDWIN MUTUAL INSURANCE COMPANY, Defendant.	)	CASE NUMBER 9560

MOTION

Comes the Defendant in the above styled cause and shows unto this Honorable Court that heretofore by order and decree, this Honorable Court approved submission of the above styled cause to arbitration and barred Plaintiffs from proceeding with pending action, and by which order an umpire was appointed to meet with the appraisers which had been appointed by each of the parties. Defendant further shows that the arbiters and the umpire were directed to submit to the Court an award setting out the actual cash value of the loss, to be agreed upon by any two, and if no two can agree, disagreement to be certified to the Court itemizing the items on which no two could agree. The Defendant further shows that no report has been submitted, and that, therefore, the matter is still pending.

Defendant, therefore, prays that this Honorable Court appoint a date by which the report as heretofore ordered shall be submitted to the Court and that notice be given to Alex Lennicx who was appointed as arbiter by the Plaintiffs and to William G. Sanders who was appointed as appraiser for the Defendant, and to Walter Lindsey who was appointed as umpire.

CHASON & UNDERWOOD

By James W. Underwood Jr.

Attorneys for Defendant

ORDER TO WALTER LINDSEY, ALEX LENNICX AND WILLIAM G. SANDERS

Petition having been filed by the attorney for the Defendant showing that an award has not been filed by the umpire appointed by the Court and or one or more of the arbiters or appraisers appointed by the parties to the above styled cause, and it being

C & U

brought to the attention of the Court that this causes unnecessary delay in the trial and settlement of this cause, you are, therefore, ordered to make such examination as is required, to submit your report as heretofore ordered, such report to be in the hands of this Court not later than 9:00 o'clock A.M. on the 22nd day of March, 1972.

DONE this the 2nd day of March, 1972.

Delfin G. Madlebuer
Judge

I hereby certify that I have this day mailed a copy of the foregoing to Mrs. Phyllis Nesbit, attorney for the Plaintiffs, by United States Mail, postage prepaid, on this the 3RD day of MARCH, 1972.

Thomas W. Chadwick Jr.

FILED

MAR 8 1972

EUNICE B. BLACKMON CIRCUIT CLERK

C & U

BOOK 13

Page 28

CECIL G. CHASON

Attorney at Law

THOMAS W. UNDERWOOD, JR.
ASSOCIATE

P. O. DRAWER 458
216 W. LAUREL AVENUE
FOLEY, ALABAMA 36535
PHONE 205/943-3171

March 5, 1971

Honorable Telfair J. Mashburn
Judge, Circuit Court
Bay Minette, Alabama 36507

Re: Nelson vs. Baldwin Mutual Ins. Co.
Case No. 9560

Dear Judge:

I have a plea in abatement in this case which has not been argued; therefore, we will not be ready for trial. I am, however, asking by a copy of this letter, that Mrs. Nesbit be prepared to argue the pleading some time next week when we meet in Bay Minette and you have time to hear the arguments.

Yours very truly,

C. G. Chason

CGC:c

cc: Mrs. Phyllis Nesbit