

SYBIL JOHNSON TRAWICK,)
 Plaintiff,) IN THE CIRCUIT COURT OF
 VS.) BALDWIN COUNTY, ALABAMA
)
 OPHELIA T. DAVIS and LIBERTY) AT LAW NO. 4682
 NATIONAL LIFE INSURANCE COM-)
 PANY,)
 Defendants.)

DEMURRER TO AMENDED COMPLAINT

Now comes the defendant, Liberty National Life Insurance Company, by its attorney, and demurs to the amended complaint in this cause and as grounds of such demurrer assigns, separately and severally, the following:

1. It does not state a cause of action.
2. No facts are alleged on which the relief sought can be granted.
3. No facts are alleged to show when the alleged payment was made by this defendant to Ophelia T. Davis.
4. It affirmatively appears that the plaintiff's alleged cause of action is barred by the one-year statute of limitations.
5. The allegations of the amended complaint are conclusions of the pleader and no facts are alleged to show any fraud on the part of this defendant.
6. No facts are alleged to show any right on the part of the plaintiff to prosecute this action on behalf of the minor children referred to therein.
7. No facts are alleged to show any right on the part of the plaintiff to prosecute this action.
8. No facts are alleged to show that the said insured did not have the right to change the beneficiary in the said policy of insurance.
9. No facts are alleged to show that the plaintiff has any right to the proceeds of the said policy of insurance.
10. No facts are alleged to show why the plaintiff did not discover the defendant's alleged fraud until on, to-wit, October 29, 1960.
11. The facts alleged are conclusions of the pleader and do

not excuse or explain why the plaintiff did not discover the alleged fraud of this defendant until on, to-wit, October 29, 1960.

J. B. Blashum
Attorney for said Defendant

FILED
JUN 1 1961
ALICE J. DUCK, Clerk

DEMURRER TO AMENDED COMPLAINT

SYBIL JOHNSON TRAWICK,

Plaintiff,

VS.

OPHELIA T. DAVIS and LIBERTY
NATIONAL LIFE INSURANCE COMPANY,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 4682

FILED
JUN 1 1961
ALICE J. DUCK, Clerk

MRS. SYBIL JOHNSON TRAWICK,	:	IN THE CIRCUIT COURT OF
Plaintiff	:	BALDWIN COUNTY, ALABAMA
	:	AT LAW
VS:	:	No. 4682
	:	
MRS. OPHELIA T. DAVIS, and	:	
LIBERTY NATIONAL INSURANCE	:	
COMPANY OF BIRMINGHAM,	:	
ALABAMA,	:	
Defendants	:	

MOTION TO SET PLEA FOR HEARING

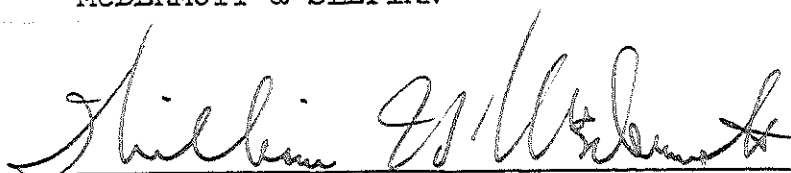
Comes now the Defendant, Mrs. Ophelia T. Davis, in the above styled cause, and, appearing specially and only for the purpose of filing this motion, respectfully moves the Court to set down for hearing the Plea in Abatement heretofore filed by her, for a hearing on its merits.

McDERMOTT & SLEPIAN

FILED

JUL 18 1961

ALICE J. DUCK, CLERK
REGISTER


Attorneys for Defendant,
Mrs. Ophelia T. Davis

Mrs Sybil Johnson Trawick
Plaintiff

Vs

Mrs. Ophelia T. Davis and
Liberty National Life Insurance
Company, a Corporation
Defendant

In the Circuit Court of
Baldwin County, Alabama
At Law. No. 4682

Now comes the Plaintiff and moves the Honorable Court to
transfer this cause to Equity and for grounds for this motion
says.

1.

The Plaintiff has no adequate remedy at law.


Attorney for the Plaintiff

State of Alabama
County of Baldwin

To any Sheriff of the State of Alabama:

You are hereby commanded to summon Mrs. Ophelia T. Davis and the Liberty National Life Insurance Company to appear and plead, answer or demur within thirty days to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama by Mrs. Sybil Johnson Trawick as Complainant and against Mrs. Ophelia T. Davis and the Liberty National Life Insurance Company, a corporation, as Defendants.

Witness my hand, this _____ day of _____, 1961.

Register

Mrs. Sybil Johnson Trawick
Complainant

Vs

Mrs. Ophelia T. Davis and
Liberty National Life Insurance
Company, a Corporation

Respondents

In the Circuit Court of
Baldwin County, Alabama
In Equity. No. _____

To. Hon. Hubert M. Hall, Judge of the Circuit Court, in Equity:

Your Complainant, Mrs. Sybil Johnson Trawick respectfully represents unto this Honorable Court as follows;

1.

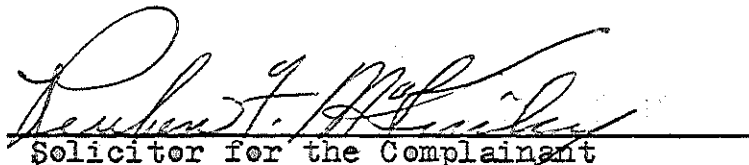
Your Complainant is a bona fide resident of Baldwin County, Alabama and has been more than one year next preceding the filing of this Bill; the Respondent Insurance Company is a Corporation doing business in this State and County; the Respondent, Mrs. Davis is a bona fide resident of Mobile County, Alabama and is jointly responsible with said Insurance Company for the matters alleged herein, which occurred in this County.

2.

The Complainant claims of the Respondents five hundred dollars fraudulently paid by the Respondent Insurance Company to the Respondent Mrs. Davis. The Complainant had a life insurance policy on her husband, Albert B. Trawick, now deceased, in the amount of five hundred dollars, with the Respondent Insurance Company, Said Company did, on to wit February 1, 1958, fraudulently change the Beneficiary from the Complainant to the Respondent, Mrs. Davis and the agent, servant and employee of the Respondent Insurance Company did fraudulently permit and encourage the Complainant to pay the premiums on said insurance, knowing the Beneficiary had been changed, unknown to the Complainant. The first time that the Complainant had any notice of the change of beneficiary was the night the insured died, October 29, 1960 when said Agent advised her of the change of beneficiary. The insured, Albert B. Trawick died, leaving a widow, the Complainant and three minor adopted children. He did not leave any other estate than this \$500.00 Insurance Policy. This, the Complainant claims as personal assets of said estate, for support for herself and said minor adopted children. Said insured died, owing a hospital bill of \$354.10, which the Complainant must pay, hence this suit to require that said change of Beneficiary be set aside, under the law relating to wills and the Statutes of Descent and Distribution and that this \$500.00 be declared as part of said estate and paid to said widow and said minor adopted children.

Wherefore, the premises considered, your Complainant prays that Your Honor will by proper procedure make the said Mrs. Ophelia T. Davis and Liberty National Life Insurance Company, a corporation, party Respondents to this Bill of Complaint, requiring them to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Your Complainant further prays that upon a final hearing hereof, Your Honor will set aside the aforementioned Change of Beneficiary and require that said five hundred dollars be paid to your Complainant and said three minor adopted Children, because of the fraud practiced upon Your Complainant; and your Complainant prays for such other, further, different or general relief as she may in Equity and good conscience be entitled to receive.

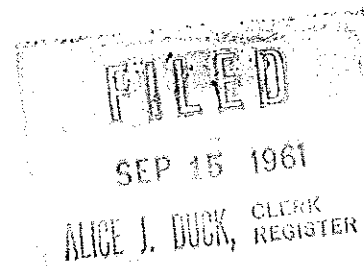

Solicitor for the Complainant

Mrs. Sybil Johnson Trawick
Plaintiff

Vs

Mrs. Ophelia T. Davis and
Liberty National Life Insurance
Company, a Corporation
Defendants

Motion to Transfer to Equity
and
Bill of Complaint



MRS. SYBIL JOHNSON TRAWICK,	:	IN THE CIRCUIT COURT OF
Complainant	:	BALDWIN COUNTY, ALABAMA
VS:	:	IN EQUITY
MRS. OPHELIA T. DAVIS and	:	NO. _____
LIBERTY NATIONAL LIFE	:	
INSURANCE COMPANY, a	:	
corporation,	:	
Respondents	:	

D E M U R R E R

Comes now the Respondent Mrs. Ophelia T. Davis and demurs to the bill of complaint heretofore filed and as grounds therefor sets down and assigns, separately and severally, the following:

1. For that there is no equity in the bill.
2. For that as against this Respondent, the bill contains no allegations which can support a decree against her.
3. For that the allegations contained in the bill are insufficient to state a cause of action in equity against this Respondent.
4. For that there is no allegation of fraud on the part of this Respondent.
5. For that the allegation that this Respondent is jointly responsible with the other Respondent is but a conclusion of the pleader.
6. For that Complainant has an adequate remedy at law.

McDERMOTT & SLEPIAN

William W. McDermott
Solicitors for Respondent Mrs.
Ophelia T. Davis



SYBIL JOHNSON TRAWICK,)		
)	Plaintiff,)
VS.))
))
OPHELIA T. DAVIS and LIBERTY))
NATIONAL LIFE INSURANCE COM-)	AT LAW	NO. 4682
PANY,)		
)		
Defendants.)		

DEMURRER TO MOTION TO TRANSFER

Now comes the defendant, Liberty National Life Insurance Company, a corporation, and demurs to the motion heretofore filed in this cause by the plaintiff to transfer this cause from the law side of this court to the equity side thereof, and as grounds of such demurrer assigns, separately and severally, the following:

1. There is no equity in the motion.
2. No facts are alleged in the said motion to authorize a transfer of this cause from the law side of this court to the equity side thereof.
3. No facts are alleged to show that the plaintiff has any cause of action which cannot be disposed of on the law side of this court.
4. The allegations of the motion are conclusions of the pleader.
5. The allegations of the motion are vague, indefinite and uncertain.
6. No facts are alleged to state a cause of action in equity against this defendant.
7. No facts are alleged to show when the alleged payment was made by this defendant to Ophelia T. Davis.
8. The allegations of the motion are conclusions of the pleader and no facts are alleged to show any fraud on the part of this defendant.
9. No facts are alleged to show any right on the part of the plaintiff to prosecute this action on behalf of the minor children referred to therein.

10. No facts are alleged to show any right on the part of the plaintiff to prosecute this action.

11. No facts are alleged to show that the said insured did not have the right to change the beneficiary in the said policy of insurance.

12. No facts are alleged to show that the plaintiff has any right to the proceeds of the said policy of insurance.

13. No facts are alleged to show why the plaintiff did not discover the defendant's alleged fraud until on, to-wit, October 29, 1960.

14. The facts alleged are conclusions of the pleader and do not excuse or explain why the plaintiff did not discover the alleged fraud of this defendant until on, to-wit, October 29, 1960.

15. The allegations of the motion are vague, indefinite and uncertain and do not excuse or explain why the plaintiff did not discover the alleged fraud of this defendant until on, to-wit, October 29, 1960.

FILED

NOV 14 1961

ALICE J. DUCK, CLERK
REGISTER

J. B. Blackburn
Attorney for said Defendant

MR 4682

DEMURRER TO MOTION TO TRANSFER

SYBIL JOHNSON TRAWICK,

Plaintiff,

VS.

OPHELIA T. DAVIS and LIBERTY
NATIONAL LIFE INSURANCE COMPANY,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4682

FILED

NOV 12 1961

ALICE J. DUCK, CLERK
REGISTERED

STATE OF ALABAMA
COUNTY OF BALDWIN

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to Summon Mrs. Ophelia T. Davis and the Liberty National Insurance Company of Birmingham, Alabama, to appear and Plead, Answer or demur within thirty days. to the Bill of Complaint filed in the Circuit Court of said County, by Mrs. Sybil Johnson Trawick as Plaintiff and against Mrs. Ophelia T. Davis and the Liberty National Insurance Company of Birmingham, Alabama, as Defendants. *a Corporation*

Witness my hand this 17 day of April 1961.

Philip J. Duck
Clerk

Mrs. Sybil Johnson Trawick In the Circuit Court of
Plaintiff Baldwin County, Alabama
Vs At Law. No. 4682
Mrs. Ophelia T. Davis, and
Liberty National ^{*Life*} Insurance
Company of ~~Birmingham, Ala.~~
a Corporation Defendants

The Plaintiff claims of the Defendants Five Hundred Dollars paid by the Defendant, Liberty National Insurance Company to the Defendant Mrs. Ophelia T. Davis, The Defendant Insurance Company did on to-wit February 1, 1958 fraudulently change the Beneficiary from the Plaintiff, to the Defendant Mrs. Davis and the Agent, Servant, and Employee of the Defendant Insurance Company, did fraudulently permit and encourage the Plaintiff to pay the premiums on said insurance, knowing that the Beneficiary had been changed, unknown to the Plaintiff. The first time that the Plaintiff had any notice of the change of Beneficiary was the night the Insured died, October 29, 1960 when ^{*5914*} ~~agent~~ advised her of the change of beneficiary. The insured, Albert B. Trawick died, leaving a widow, the Plaintiff and three minor adopted children. He did not leave any other estate than this \$500.00 Insurance Policy. This, the Plaintiff claims as personal assets of said estate, as support for herself and said minor adopted children. Said Insured died, owing a hospital bill of \$354.10, which the Plaintiff must pay, hence this suit to require that said change of beneficiary be set aside under the law relating to wills and that this \$500.00 Insurance be declared as part of said estate and turned over to said widow and minor adopted children.

Richard T. McLeary
Attorney for the Plaintiff

Plaintiff demands a trial by Jury.

Richard T. McLeary
Attorney for the Plaintiff

FILED

APR 17 1961

ALICE J. DUCK, Clerk

Executed this the 21st day of April, 1961
Liberty National Insurance Co.

By leaving a copy of within with
Mr. B. B. B. B.
of said co
HOLT A. McDOWELL, Sheriff
Jefferson County, Alabama

TRAVELING EXPENSE \$1.00
1.00

EXECUTED
This 28 day of April, 1961
by serving a copy of the within on
Mrs. Ophelia T. Davis
RAY D. BRIDGES, Sheriff
By L. Morgan D.S.

RECEIVED
APR 27 1961
SHERIFF'S OFFICE

Baldwin County
4682
2675

Mrs. Sybil Johnson Trawick
Plaintiff
Vs
Mrs. Ophelia T. Davis, and
Liberty National Insurance
Company of Birmingham, Ala.
Defendants

APR 19 AM 9:47

28th day of April
SUMMONS AND COMPLAINT
The Defendant, Mrs. Davis
Can be served at 1307
Turner Road, Whistler,
Ala.

Please serve this direct
on Defendant Insurance
Company in Jefferson
County

FILED
APR 17 1961
ALICE J. DUCK, Clerk

ad

MRS. SYBIL JOHNSON TRAWICK, : IN THE CIRCUIT COURT OF
Complainant : BALDWIN COUNTY, ALABAMA
VS: : IN EQUITY
MRS. OPHELIA T. DAVIS and : NO. _____
LIBERTY NATIONAL LIFE :
INSURANCE COMPANY, a :
corporation, :
Respondents :

D E M U R R E R

Comes now the Respondent Mrs. Ophelia T. Davis and demurs to the bill of complaint heretofore filed and as grounds therefor sets down and assigns, separately and severally, the following:

1. For that there is no equity in the bill.
2. For that as against this Respondent, the bill contains no allegations which can support a decree against her.
3. For that the allegations contained in the bill are insufficient to state a cause of action in equity against this Respondent.
4. For that there is no allegation of fraud on the part of this Respondent.
5. For that the allegation that this Respondent is jointly responsible with the other Respondent is but a conclusion of the pleader.
6. For that Complainant has an adequate remedy at law.

McDERMOTT & SLEPIAN

William W. McDermott
Solicitors for Respondent Mrs.
Ophelia T. Davis

FILED
OCT 30 1961
ALICE J. DUCK, CLERK
REGISTER

MRS. SYBIL JOHNSON TRAWICK,

Plaintiff

VS:

MRS. OPHELIA T. DAVIS,
and LIBERTY NATIONAL
INSURANCE COMPANY OF
BIRMINGHAM, ALABAMA,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4682

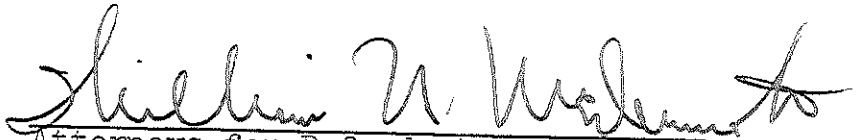
PLEA IN ABATEMENT

Comes now the Defendant, Mrs. Ophelia T. Davis, in the above styled cause and, appearing specially and only for the purpose of filing this plea, pleads that this cause be abated as to her and as grounds therefor sets down and assigns the following, separately and severally:

I.

For that said Defendant, Mrs. Ophelia T. Davis, does now and has for the past twenty six (26) years made her permanent residence in Mobile County, Alabama; she resides at, to-wit, 1307 Turner Road, Whistler, Mobile County, Alabama, where she lives with her husband; that she does not live in Baldwin County, Alabama, but that she does in fact maintain a permanent residence in Mobile County, Alabama.

McDERMOTT & SLEPIAN


Attorneys for Defendant,
Mrs. Ophelia T. Davis

STATE OF ALABAMA:

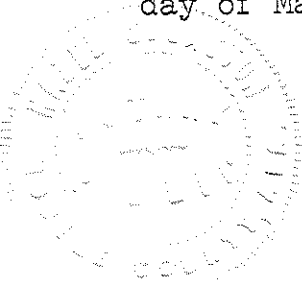
COUNTY OF MOBILE:

Before me, the undersigned authority in and for said State and County, personally appeared Mrs. Ophelia T. Davis who, known to me and being by me first duly sworn, did depose on oath and say that she has read the above and foregoing allegations contained in said Plea in Abatement; that she has personal knowledge of the facts therein stated and that said facts are true and correct.

FILED
MAY 15 1961
ALICE J. DUCK, CLERK
REGISTER

 (SEAL)
Mrs. Ophelia T. Davis

Sworn to and subscribed before me on this the 9
day of May, 1961.



Harold S. Guston
Notary Public, Mobile County, Alabama

MY COMMISSION EXPIRES
NOVEMBER 9, 1963