

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA;

You are hereby commanded to summon Jefferson Life and Casualty Company, Inc., a Corporation, 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 William Dryer.

WITNESS my hand this 14 day of May, 1962.

Alice J. Duck
Clerk

Defendant may be served by serving a copy on the Superintendent of Insurance for the State of Alabama, Montgomery, Alabama.

EX-5-18-62

* * * * *

WILLIAM DRYER,

Plaintiff,

VS.

JEFFERSON LIFE AND CASUALTY
COMPANY, INC., a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

5140

C O M P L A I N T

COUNT ONE

The Plaintiff claims of the Defendant the sum of One Hundred Fifty-eight and 75/100 Dollars (\$185.75) for that heretofore on to-wit, April 5, 1960, the Defendant did insure the Plaintiff against loss by reason of hospital expenses actually incurred by Plaintiff while said policy was in effect (Policy No. HS330525) and Plaintiff avers that he did, while said insurance policy was in full force and effect, suffer a loss by reason of hospital expenses actually incurred by reason of a transurethral prostatectomy for benign prostatism and that the amount of his hospital expenses actually incurred by reason thereof was One Hundred Fifty-eight and 75/100 Dollars (\$185.75). The Plaintiff avers that he has made a written

proof of loss to the said Defendant in accordance with the terms of the said policy as aforesaid and that the Defendant has failed and refused and continues to fail and refuse to pay Plaintiff the amount of his loss as aforesaid, hence this suit. Plaintiff further avers that he is the beneficiary of the amounts payable under said policy and that he is the owner of the said policy and has been at all times the beneficiary and owner of the said policy.

COUNT TWO

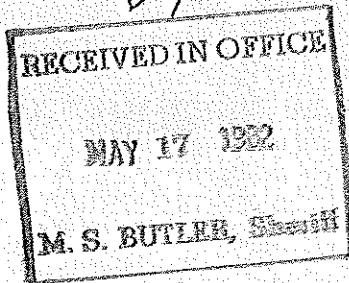
The Plaintiff claims of the Defendant the sum of Six Hundred Ten and 75/100 Dollars (\$610.75) for that heretofore on to-wit, April 5, 1960, the Defendant did insure the Plaintiff against loss by reason of surgical or medical expenses actually incurred by the Plaintiff while the said policy was in force and effect (Policy No. M330525) and Plaintiff avers that he did, while said insurance policy was in full force and effect, suffer a loss by reason of surgical and medical expenses actually incurred by reason of a transurethral prostatectomy for benign prostatic hyperplasia and that the amount of his surgical and medical expenses actually incurred by reason thereof was Six Hundred Ten and 75/100 Dollars (\$610.75). Plaintiff avers that he has made a written proof of loss to the said Defendant in accordance with the terms of the said policy as aforesaid and that the Defendant has failed and refused and continues to fail and refuse to pay Plaintiff the amount of his loss as aforesaid, hence this suit. Plaintiff further avers that he is the beneficiary of the amounts payable under said policy and that he is the owner of the said policy and has been at all times the beneficiary and owner of the said policy.

FILED

MAY 14 1962

ALICE J. DUCK, CLERK
REGISTER


Attorney for Plaintiff



(2)

Executed by serving 2 copies of
the within on William D. Page
Superintendent
of Insurance, State of Alabama
This the 18 day of May 1962
Sheriff of Montgomery County
M. S. Butler,
By James D. S.

The Sheriff claims 2
miles at 100 per mile for a total
of \$ 20
M. S. Butler, Sheriff
Montgomery County, Ala.

COMPLAINT

3140

WILLIAM DRYER,

Plaintiff,

VS.

JEFFERSON LIFE AND CASUALTY
COMPANY, INC., a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

FILED

MAY 14 1962

ALICE J. DUCK, CLERK
REGISTER

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

WILLIAM DRYER,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
	X	AT LAW
JEFFERSON LIFE AND CASUALTY	X	
COMPANY, INC., a corporation,	X	NO. <u>5140</u>
Defendant.	X	

Comes now the Defendant in the above styled cause, by its attorneys, having heretofore filed a demurrer to the complaint in said cause, which said demurrer has not yet been ruled upon, and adds the following ground of demurrer to count one of said complaint:

5. For that the amount claimed is uncertain and indefinite.

FILED

CHASON & STONE

JUL 17 1962

ALICE J. DUCK, CLERK
REGISTER

By:

John Earle Chason
Attorneys for Defendant

LAW OFFICES OF
LANGE, SIMPSON, ROBINSON & SOMERVILLE
EXCHANGE SECURITY BANK BUILDING
BIRMINGHAM 3, ALABAMA

FAIRFAX 3-8941

May 31, 1962

RAY L. LANGE
JAMES A. SIMPSON
MEMORY L. ROBINSON
ORMOND SOMERVILLE
REID B. BARNES
JAMES O. HALEY
WHITE E. GIBSON, JR.
ROBERT MCD. SMITH
CHARLES B. ROBINSON
ROY W. SCHOLL, JR.
ALLEN D. RUSHTON
JAMES E. SIMPSON
JAMES L. CLARK
HENRY E. SIMPSON

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

Re: William Dryer v. Jefferson Life
& Casualty Company, Inc., a
Corporation - No. 5140

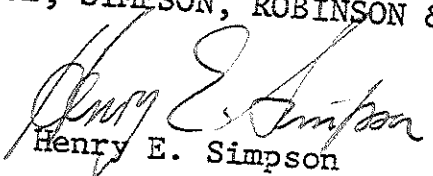
Dear Mrs. Duck:

Enclosed please find a demurrer which we wish to file in the above styled case. We would be much obliged if you would execute the enclosed receipt and return the same to us in the enclosed self-addressed envelope. It would be very helpful to this office if you would advise us of the approximate setting of this case, which can be done on the extra copy of this letter enclosed.

Thank you for your co-operation.

Yours truly,

LANGE, SIMPSON, ROBINSON & SOMERVILLE


Henry E. Simpson

HES:A
Enc.

LANGE, SIMPSON, ROBINSON & SOMERVILLE

EXCHANGE SECURITY BUILDING

BIRMINGHAM 3, ALABAMA

May 31, 1962

C
O
P
Y
Mrs. Alice J. Duck
Clerk of the Circuit Court
Court House
Bay Minette, Alabama

Re: William Dryer v. Jefferson Life
& Casualty Company, Inc., a
Corporation - No. 5140

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Enclosed please find a demurrer which we wish to file in the above styled case. We would be much obliged if you would execute the enclosed receipt and return the same to us in the enclosed self-addressed envelope. It would be very helpful to this office if you would advise us of the approximate setting of this case, which can be done on the extra copy of this letter enclosed.

Thank you for your co-operation.

Yours truly,

LANGE, SIMPSON, ROBINSON & SOMERVILLE

HES:A
Enc.

Henry E. Simpson

WILLIAM DRYER,	X	
	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
JEFFERSON LIFE AND	X	
CASUALTY COMPANY, INC.,	X	AT LAW
A CORPORATION,	X	
	X	
Defendant.	X	

PLEA:

Comes now the Defendant in the above styled cause, by its attorneys and for answer to the Complaint heretofore filed against it and to each count thereof, separately and severally and pleads, separately and severally as follows:

1. That the allegations of the Complaint are untrue.

2. That the Plaintiff did on, to-wit: the 11th day of March, 1960 make written application to the Defendant for the policies of insurance referred to in the complaint heretofore filed in this cause and contained in said application was question number 8 which read as follows: "Do you or those to be insured now have or have you or they ever had or been under observation for any of the following: Rheumatism, Gout, Arthritis, Neuritis, Female Disorders, Sciatica, Paralysis, Venereal Disease, Cancer, Goiter, Tumor, Highblood Pressure, Diabetes, Varicose Veins, Appendicitis, Hernia, Hemorrhoids, Tonsillitis, Fits, Mental Infirmary or any Gall Bladder, Tubercular, Heart, Stomach or Kidney or Bladder Trouble, or a disease of either Ear or Eyes? _____ (If answer is "yes" give details below). For what other sickness or accident have you or those to be insured been treated by or consulted a doctor during the last five years" STATE WHO GIVING FULL DETAILS:" That in answering the above question the Plaintiff drew a circle around the word "Hernia" in the above question; wrote "yes" in the blank space and at the end of the question wrote "Gladys L. Dryer-1951-Hernia Repair-10 days-Dr. Paul M. Goldfarb, Mobile Medical Center, Mobile, Alabama". That the Plaintiff did not place a circle

around the word "Diabetes" in said question or in any way indicate in said application or in reply to said question that he had been treated for Diabetes Mellitus; nor did the Plaintiff inform the Defendant in answer to Question Number "8." that he had previously been treated for "Prepyloric Ulcer", nor that within the last five years he had been treated for "Diverticulosis", or Chronic Prostatitis. That the Plaintiff had in fact consulted a physician and been treated for Diabetes Mellitus and Prepyloric Ulcer and that he had, within the last five years been treated for Diverticulosis and Chronic Prostatitis and that the Plaintiff's said representations in this answer were false in that he failed to reveal in his application that he had in fact consulted a physician and been treated for Diabetes Mellitus and Prepyloric Ulcer and that he had, within the last five years been treated for Diverticulosis and Chronic Prostatitis and that said representations were made with the actual intent to deceive the Defendant and that the Defendant relied on said representations to its prejudice, hence the Plaintiff cannot recover.

3. That the Plaintiff did on, to-wit: the 11th day of March, 1960 make written application to the Defendant for the policies of insurance referred to in the complaint heretofore filed in this cause and contained in said application was Question Number 8 which read as follows: "Do you or those to be insured now have or have you or they ever had or been under observation for any of the following: Rheumatism, Gout, Arthritis, Neuritis, Female Disorders, Sciatica, Paralysis, Venereal Disease, Cancer, Goiter, Tumor, Highblood Pressure, Diabetes, Varicose Veins, Appendicitis, Hernia, Hemorrhoids, Tonsillitis, Fits, Mental Infirmary or any Gall Bladder, Tubercular, Heart, Stomach or Kidney or Bladder Trouble, or a disease of either Ear or Eyes? _____ (If answer is "yes" give details below). For what other sickness or accident have you or those to be insured been treated by or consulted a doctor during the last five years"

STATE WHO GIVING FULL DETAILS:" That in answering the above question the Plaintiff drew a circle around the word "Hernia" in the above question; wrote "yes" in the blank space and at the end of the question wrote "Gladys L. Dryer-1951-Hernia Repair-10 days-Dr. Paul M. Goldfarb, Mobile Medical Center, Mobile, Alabama." That the Plaintiff did not place a circle around the word "Diabetes" in said question or in any way indicate in said application or in reply to said question that he had been treated for Diabetes Mellitus; nor did the Plaintiff inform the Defendant in answer to Question Number "8." that he had previously been treated for "Prepyloric Ulcer", nor that within the last five years he had been treated for "Diverticulosis", or Chronic Prostatitis. That the Plaintiff had in fact consulted a physician and been treated for Diabetes Mellitus and Prepyloric Ulcer and that he had, within the last five years been treated for Diverticulosis and Chronic Prostatitis and that the Plaintiff's said representations in this answer were false in that he failed to reveal in his application that he had in fact consulted a physician and been treated for Diabetes Mellitus and Prepyloric Ulcer and that he had, within the last five years been treated for Diverticulosis and Chronic Prostatitis and that said representations actually increased the risk of loss and that the Defendant relied on said representations to its prejudice, hence the Plaintiff cannot recover.

4. That the Plaintiff did on, to-wit the 11th day of March, 1960, make written application to the Defendant for the policies of insurance referred to in the Complaint heretofore filed in this cause and Question Number 10 of said application read as follows:" Do you understand and agree that the policy hereby applied for will not take effect unless and until it is delivered to and received by you and the first premium is paid while all persons named in Question 1 above are in good health and free from all injury, and that the company is not bound by any knowledge of or statement made by or to any agent, unless

set forth herein?" That the Plaintiff wrote the word "yes" in response to said question and the Defendant avers that at the time of the delivery to and receipt by the Plaintiff of said policies and at the time that premiums for the same were paid the Plaintiff was not in good health, hence the Plaintiff cannot recover.

CHASON, STONE & CHASON

By: John Earle Chason

FILED
MAY 29 1964
ALICE L. DUCK, CLERK
REGISTER

WILLIAM DRYER,)	IN THE CIRCUIT COURT OF
)	
PLAINTIFF)	BALDWIN COUNTY, ALABAMA
)	
VS.)	AT LAW
)	
JEFFERSON LIFE AND CASUALTY)	No. 5140
COMPANY, INC., a)	
corporation,)	
)	
DEFENDANT)	

DEMURRER

Now comes the defendant in the above styled cause, by its attorneys, and demurs to the complaint as a whole, and separately and severally to each count thereof, and for grounds therefor, separately and severally assigns the following:

1. For that the complaint does not fully set out the policy of insurance sued on.
2. For that a cause of action is not stated against this defendant.
3. For that said complaint does not sufficiently apprise the defendant of what duty it owed the plaintiff.
4. For that it does not sufficiently appear what provisions of the policies referred to are relied upon by the plaintiff.

Filed

June 4, 1962

Lance Simpson Robinson Somerville
 LANGE, SIMPSON, ROBINSON & SOMERVILLE
 ATTORNEYS FOR THE DEFENDANT

No. 5140

5140
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

WILLIAM DRYER,

PLAINTIFF

VS.

JEFFERSON LIFE AND
CASUALTY COMPANY, INC.,
a corporation,

DEFENDANT

DEMURRER

FILED

JUN 4 1962

ALICE J. DUCK, CLERK
REGISTER

LAW OFFICES OF

LANGE, SIMPSON, ROBINSON & SOMERVILLE
EXCHANGE SECURITY BANK BUILDING
BIRMINGHAM, ALA.