

In The Circuit Court for Baltimore City
CIVIL

Part IV of _____ Parts
m. / 30

Part II

See Part III

HF 8-38-8

In the Matter of
Joseph Robnik, et al

B.
The Union Labor Life
Ins. Co et al

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DATE	DOCKET ENTRIES	NO.
7/28/89	Appearance of attorney Marian C. Nwang for deft T.E Shaffer, Company same day motion for summary judgment	54
8-3-89	Second Amended Complaint and Prayer for Jury Trial pl. 3 Add New Def. 7 New Resident - West issued	55
8-3-89	Plaintiff's Response to Motion for Summary Judgment, Motion Hearing Report + Attachments pl 1 set MOT	56
8/11/89	Deft. (Union Labor Life Ins.) request for production of documents (Deft. (L.E. Shaffer & Co.))	59-A
8/11/89	Deft. (Union Labor Life Ins.) notices (6) to take depositions duces tecum.	59-B-G
8/2/89	Deft. (Union Labor Life Ins.) interrogatories to Deft. (Sheppard - Pratt Hosp.).	54-H
8/2/89	Deft. (Union Labor Life Ins.) suit request for production of documents as to Deft. (Sheppard - Pratt).	54-I
8/11/89	Deft. (Sheppard/Pratt) interrogatories + request for production of documents	58-59
8/16/89	Deft. The Union Labor Life Insurance Co. answer to second	60
8/17/89	Amended Complaint of Deft. Union Labor Life notice of removal of	54-59
8/31/89	Defts. (L.E. Shaffer & the Fund) response to request for production of documents	61
9/6/89	Deft. (Sheppard + Enoch Pratt) Answer to Amended Complaint	62
9/6/89	affid. of service Hudson County Corporators, welfare, pension, vacation and annuity funds 9/14/89	63

DATE	DOCKET ENTRIES	NO.
9-27-88	Deft (D. E. Shaffer & Co.) (5) Notice's to take Deposition	37-41
11-18-88	Plff's Motion to Dismiss the Counter-Claim is "Denied" and Deft's, Union Labor Life, Motion to Dismiss Claim for Punitive Damages is "Granted" as to the First Amended Complaint. Order fd. (Noel J.)	42
11/30/88	Plffs answer to counter-claim fd and prayer for jury trial	43
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1-27-89	Deft Counter claim fd.	45
2-2-89	Plffs Answer to Counter Claim	46
5/1/89	Notice of Telephonic Deposition Dues Return	47
7-10-89	Def. (The Union Life Ins. Co.) Motion for Summary Judgment, Statement of Grounds + Authenticity Request for Hearing (SET MOT)	48
7/19/89	Deft (Union Labor) motion to Compel to Undergo a Mental Examination, Request for hearing (Set MOIS)	49
7/28/89	Plffs request for hearing on Motion to Compel	50
7/28/89	Deft Union Labor Life Insurance Company, motion to postpone deposition of witness (Trig. 8/21/89)	51
7/28/89	Deft Shepard Enoch Roth Hospital opposition to Union Labor Life's motion for summary judgment request for hearing	52
7/31/89	Deft Union Labor Life Insurance Company Supplemental Answer to interrogatories	53

IN THE CIRCUIT COURT FOR BALTIMORE CITY

CATEGORY OTLAW

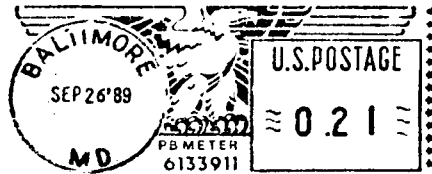
CASE NO 87313071/CL73531 PAGE 1 of

PARTIES	ATTORNEY(S)
<p>Joseph Rolnik Deborah Rolnik</p> <p>vs.</p> <p>The Union Labor Life Insurance Company Sheppard & Enoch Pratt Hospital I.E. Shaffer & Company <i>cross-deft</i></p> <p><i>Hudson County Employees Welfare, Pension, Vacation & Annuity Funds</i></p>	<p>Mark T. Mixter 641882</p> <p><i>cross/plff</i> 910752 Marian C. Huang 409864 Kristine A. Cropper <i>def</i> James R. Eyer <i>plff</i> Sergio R. Acciardo Thomas M. Trease 915752 Brian D. Smith 911225 Mary M. Burt 911225 Kenneth L. Thompson 604464 Leticia L. Moses 912672</p>

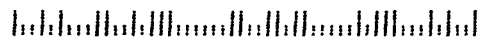
DATE	DOCKET ENTRIES	NO.
11-9-87	Complaint, and EJT, FD.	1
"	Summonses issued.	

CIRCUIT COURT FOR BALTIMORE CITY
ASSIGNMENT DIVISION - Room 219-220
Clarence M. Mitchell, Jr. Court House
100 N. Calvert Street
Baltimore, Md. 21202

PRESORTED
FIRST CLASS



CL-73531



CASE NUMBER 87313071
DOCKET
FOLIO

ROLNIK V UNION LABOR LIFE INS. CO. CL73531

DATE PRINTED
09/25/89

THE ABOVE ENTITLED CASE, IN WHICH YOU APPEAR AS DEFENSE ATTORNEY HAS
BEEN SCHEDULED FOR MOTION HEARING - GENERAL

IF YOU ANTICIPATE ANY PROBLEM WITH THIS CASE PROCEEDING AS SCHEDULED,
PLEASE CALL CIVIL ASSIGNMENT IMMEDIATELY AT 333-3755.

COUNSEL MUST NOTIFY ALL NECESSARY PARTIES TO APPEAR AT THE TIME AND
LOCATION DESCRIBED BELOW.

SAUNDRA E. BANKS
CLERK OF COURT

DATE - 10/06/89
TIME - 09.30 A.M.
PLACE - ROOM 329 PART 23
COURTHOUSE EAST
CALVERT AND LEXINGTON STS
BALTIMORE, MD 21202

SMITH, BRIAN S
36 S. CHARLES STREET
BALTIMORE MD 21201

E II

FILED

SEP 6 1989

JOSEPH ROLNIK and
DEBORAH ROLNIK

Plaintiff

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAEFER and HUDSON COUNTY
CARPENTERS, WELFARE, PENSION,
VACATION AND ANNUITY FUNDS

Defendants

IN THE CIRCUIT COURT FOR
BALTIMORE CITY

CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

* * * * *

AFFIDAVIT OF SERVICE

STATE OF MARYLAND:

to wit:

CITY OF BALTIMORE:

Mark T. Mixter, being duly sworn, says that the second amended complaint was duly served upon the defendant, Hudson County Carpenters, Welfare, Pension, Vacation and Annuity Funds, by certified mail, at 840 Bear Tavern Road, West Trenton, New Jersey 08628 on August 14, 1989 as evidenced by the signature on the return receipt attached to this affidavit as Exhibit "A". The undersigned further certifies that he is over 18 years of age and is not a party to this action.

Mark T. Mixter

Mark T. Mixter

Linda B. Kuzgowski
Notary Public

My Commission Expires: 7-1-90

107

62 D.
FILED

SEP 6 1989

CIRCUIT COURT FOR
BALTIMORE CITY

JOSEPH ROLNIK, et al.	*	IN THE
	*	CIRCUIT COURT
Plaintiffs	*	FOR
v.	*	BALTIMORE CITY
THE UNION LABOR LIFE	*	87313071/CL73531
INSURANCE COMPANY, et al.	*	
Defendants	*	
	*	
* * * * *	*	
	*	

ANSWER TO AMENDED COMPLAINT

The Sheppard & Enoch Pratt Hospital, Inc., one of the Defendants, by its attorneys, Thomas M. Trezise, Sergio R. Acchiardo, and Semmes, Bowen & Semmes, answers the Amended Complaint as follows:

FIRST DEFENSE

The Amended Complaint fails to state a claim against this Defendant upon which relief can be granted.

1. The Defendant admits the allegations set forth in Paragraphs 1 through 16.

2. The Defendant neither admits nor denies Paragraphs 17, 24, 31, 35, 37, and 39 as they are procedural in nature and not appropriately admitted or denied.

3. The Defendant denies the allegations set forth in Paragraphs 18 through 23 and Paragraphs 25 through 30 as they apply to this Defendant, but admit same as they relate to the other Defendants.

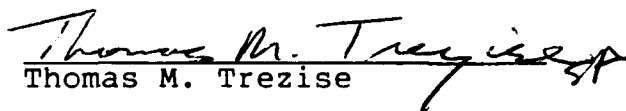
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4. The Defendant admits the allegations set forth in Paragraphs 32, 33, and 34.

5. The Defendant denies the allegations set forth in Paragraphs 36 and 38 as they apply to this Defendant, but admit same as they relate to the other Defendants.

6. The Defendant admits the allegations set forth in Paragraphs 40 and 41 and that the Plaintiffs are liable to this Defendant for all care and treatment received by the Plaintiff, Deborah Rolnik, from this Defendant.

WHEREFORE, having fully answered the Amended Complaint, Sheppard & Enoch Pratt Hospital, Inc., Defendant, respectfully requests that judgment be entered in its favor and for such other further relief as the Court may deem appropriate.


Thomas M. Trezise


Sergio R. Acchiardo
Semmes, Bowen & Semmes
P. O. Box 6705
Towson, MD 21285-6705
296-4400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of September, 1989, a copy of the foregoing Answer to Amended Complaint was mailed, postage pre-paid, to Kenneth L. Thompson, Esq., Piper & Marbury, 1100 Charles Center South, 36 S. Charles Street, Baltimore, MD 21201; Mark T. Mixter, Esq., Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, MD 21202; Kristine A. Crosswhite, Esq., Miles & Stockbridge, 10 Light Street, Baltimore, MD 21202.

Sergio R. Acchiaro
Sergio R. Acchiaro

FILED

AUG 31 1989

**CIRCUIT COURT FOR
BALTIMORE CITY**

6/28

JOSEPH ROLNIK, et al.,

Plaintiffs,

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,

Defendants.

* FOR

* BALTIMORE CITY

*

*

Case No. 87313071/CL73531

* * * * *

**DEFENDANT, I.E. SHAFFER COMPANY'S
RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS
FROM UNION LABOR LIFE INSURANCE COMPANY**

Defendants, I.E. Shaffer Company ("IE Shaffer") and The Hudson County Carpenters Welfare Fund (the "Fund"), by its attorneys, James R. Eyler and Kristine A. Crosswhite, pursuant to Rule 2-422 of the Maryland Rules of Procedure, responds to the Request for Production of Documents propounded by the co-defendant, Union Labor Life Insurance Company, and states as follows:

REQUEST NO. 1: The employee benefits plan under which the Hudson County Carpenters Welfare Fund operated to provide union members, including plaintiff Joseph Rolnik, with benefits, including, but not limited to, health and medical insurance. Such plan may be referred to as a "trust document", "employee benefits plan", "ERISA plan", etc.

RESPONSE: The document requested will be produced and is attached hereto.

James R. Eyler
James R. Eyler

Kristine A. Crosswhite

Kristine A. Crosswhite
MILES & STOCKBRIDGE
10 Light Street
Baltimore, Maryland 21202
(301) 727-6464

Attorneys for Defendants,
I.E. Shaffer Company and The
Hudson County Carpenters
Welfare Fund

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August,
1989, a copy of the foregoing **RESPONSE TO REQUEST FOR
PRODUCTION OF DOCUMENTS** was mailed, first class postage
prepaid, to:

Kenneth L. Thompson, Esquire
Brian S. Smith, Esquire
PIPER & MARBURY
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
Attorneys for the Union Labor
Life Insurance Company

Mark T. Mixer, Esquire
SMITH, SOMERVILLE & CASE
100 Light Street
Sixth Floor
Baltimore, Maryland 21202

Thomas Trezise, Esquire
SEMMES, BOWEN & SEMMES
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21204

Kristine A. Crosswhite

Kristine A. Crosswhite

THE REVISED AGREEMENT
AND DECLARATION OF TRUST
ESTABLISHING THE WELFARE FUND

THE REVISED AGREEMENT and DECLARATION OF TRUST made as of the first day of January, 1976, by and between the undersigned Union Trustees and Employer Trustees, who together with their successor Trustees designated in a manner hereinafter provided are hereinafter collectively referred to as "Trustees."

The Hudson County District Council of Carpenters and Millwrights and its Constituent Local Unions, hereinafter referred to as the Union, is a labor organization; and

WHEREAS, the Union now has and will hereafter have in effect collective bargaining agreements with certain employers requiring periodic payments by said employers into a Trust Fund for the purpose of providing life insurance, accident and health insurance and such other forms of group insurance for medical care and hospitalization and incidental related benefits for participants and their beneficiaries, as is more fully set forth in the "Health and Welfare Plan" established hereby; and

WHEREAS, the Union and each Employer who is a party to, or otherwise bound by, such a collective bargaining agreement which accepts this Agreement and Declaration of Trust and agrees to be bound by the provisions thereof shall, upon acceptance by the Trustees, be deemed a party to this Agreement and Declaration of Trust; and

WHEREAS, to effectuate the aforesaid purpose it is desired to establish and maintain a trust fund which will conform with the requirements of the Employee Retirement Income Security Act of 1974 and any subsequent amendments thereto and regulations promulgated pursuant thereto and any such other federal or state law as may be or become applicable;

NOW, THEREFORE, in consideration of the premises and in order to establish and provide for the maintenance of the aforesaid Trust Fund, to be known as the Hudson County Carpenters Welfare Fund hereinafter referred to as the Trust Fund, the undersigned Union Trustees and Employer Trustees declare that they will receive and hold such contributions and other money or property which may come into the Trust Fund pursuant to the following powers and duties and for the following uses, and none other to wit:

ARTICLE I

1. Employer. The term "Employer" as used herein shall mean:

(a) an Employer who is a party to, or otherwise bound by a collective bargaining agreement or other agreement in writing with the Union providing for the making of payments to the Trust Fund with respect to Employees represented by the Union.

(b) The Union or Trustees, or the Trustees of a Pension Fund, Vacation Fund, or other fringe benefit fund in which the Union

participates and which furthers the purpose of or benefits the employees represented by the Union for the purpose of collective bargaining, respectively, shall each be considered as an Employer, with respect to their Employees for whom contributions are made by them to the Trust Fund. Such status as an Employer shall be solely for the purpose of making the required contributions to the Trust Fund and neither the Union nor the Trustees of this or any other Union fringe benefit fund shall participate in the selection of any Employer Trustee.

2. Union. The term "Union" as used herein shall mean The Hudson County District Council of Carpenters and Millwrights and its Constituent Local Unions.

3. Employee. The term "Employee" as used herein shall mean:

(a) any employee with respect to whose employment an Employer is required to make contributions into the Trust Fund; or

(b) any officer or employee of the Union who shall have been proposed for benefits under the Trust Fund by the Union and who shall have been accepted by the Trustees and for whom the Union agrees in writing to contribute to the Trust Fund at the rate fixed for contributions for any other Employer; or

(c) an employee of this Trust Fund or any Pension Fund, Vacation Fund, or other fringe benefit Fund related to the Union, who is not employed by any Employer but who shall be proposed and accepted for benefits under the Trust Fund by the Trustees and for whom the Trustees agree in writing to contribute to the Trust Fund at the rate fixed for contributions for any other Employer.

The term "Employee" shall not include any self employed person or any person who is an Employer, or an officer or director of a corporation or owner of a business organization, which said corporation or business organization is an Employer as defined herein.

4. Participant. The term "Participant" as used herein shall mean any Employee or former Employee of an Employer who is, or may become, eligible to receive any type of benefit from this Fund or whose beneficiaries may be, or become, eligible to receive any such benefit.

5. Beneficiary. The term "Beneficiary" as used herein shall mean a person designated by a Participant or by the terms of the Plan of Benefits established pursuant to this Trust Agreement who is, or may become, eligible to receive any type of benefit from this Fund.

6. Trustees. The term "Trustees" as used herein shall mean the Trustees designated in this Trust Agreement or their successors designated and appointed in accordance with the terms of this Trust Agreement.

7. Administrator. The term "Administrator" as used herein shall mean the Trustees, collectively, of this Fund.

8. Fund Manager. The term "Fund Manager" as used herein shall mean any person whom the Trustees may employ who shall be under the direction of the Trustees or under the direction of any appropriate committee of Trustees, and who shall, pursuant thereto, administer the office or offices of the Trust Fund and of the Trustees, coordinate and administer the accounting, bookkeeping, and clerical

services, provide for the coordination of actuarial services furnished by the consulting actuary, if any, prepare all reports and other documents to be prepared, filed or disseminated by or on behalf of the Trust in accordance with law, assist in the collection of contributions required to be paid to the Trust Fund by Employers, and perform such other duties and furnish such other services as may be assigned, delegated, or directed, or as may be contracted by on behalf of the Trustees.

9. Trust Fund. "Trust", "Trust Fund", and "Fund" as used herein shall mean the entire trust estate of the Hudson County Carpenters Welfare Fund as it may, from time to time, be constituted, including, but not limited to, policies of insurance, investments, and the income from any and all investments, Employer's contributions and any and all other assets, property, or money received or held by the Trustees for the uses and purposes of this Trust.

10. Trust Agreement. The terms "Revised Agreement and Declaration of Trust" or "Trust Agreement" as used herein shall mean this instrument, including any amendment or modifications which may from time to time be made.

11. Act. The term "Act" as used herein shall mean the Employee Retirement Income Security Act of 1974, and such amendments as may from time to time be made and such regulations as may be promulgated pursuant to the provisions of said Act.

12. Plan. The term "Plan of Benefits", "Welfare Plan", or "Plan" as used herein shall mean the schedule of benefits and the rules and

regulations of the Trust Fund as shall be established from time to time by the Trustees for the administration of the Trust Fund.

ARTICLE II

1. The Trustees shall use and apply the Trust Fund for the following purposes only:

(a) To provide life insurance, accident and health insurance and such other forms of group insurance for medical care and hospitalization and incidental related benefits, including group dental care at the discretion of the Trustees, for Participants and their Beneficiaries, as is more fully set forth in the "Health and Welfare Plan" established hereby;

(b) To pay or provide for the payment of all reasonable and necessary expenses of collecting the Employer contributions and administering the affairs of this Trust, including but not limited to the employment of such administrative, legal, expert, investment advisory, custodial, clerical or other assistance, the purchase or lease of such materials, supplies, equipment and office space and the performance of such other acts as the Trustees, in their discretion, may find necessary or appropriate in the performance of their duties; and

(c) To establish and accumulate such reserves as the Trustees, in their discretion, may deem necessary or desirable to effectuate the purposes of this Trust Agreement.

2. Any and all dividends on any policy or policies of insurance to be procured and held by the Trustees shall be paid to the Trustees and shall be received by them as part of the Trust Fund to be administered

and disposed of as herein provided.

3. The Trustees shall invest all monies received or held by the Trust Fund in such investments as are legal investments under applicable State and Federal Law relating to the investment of employee welfare benefit trust funds.

4. All checks, drafts, vouchers, or other withdrawals or payments of funds from any bank account maintained by the Fund shall be signed by two persons who shall be appointed by the Trustees to perform such duties.

ARTICLE III

1. The Trustees, as Trustees, shall have the power and exclusive discretion:

(a) To demand, collect, receive and hold contributions and to take such steps, including the institution, prosecution, or intervention in, any proceeding at law, in equity, or bankruptcy, as may be deemed necessary or desirable to effectuate the collection of such contributions, and the settlement, compromise and adjustment of all claims whatsoever.

(b) To invest and reinvest such funds, as are not necessary for current expenditures or liquid reserves, as they may from time to time determine, in such investments as are legal investments under applicable State and Federal Law relating to the investment of employee welfare benefit trust funds, but not limited, however, by any

limitation restricting investments in common stocks to a percentage of the Fund or to a percentage of the total market value of the Fund. The Trustees shall also have power and authority (in addition to, and not limitation of, common law and statutory authority) to invest in any stocks, bonds, or other property, real or personal; including improved or unimproved real estate and equity interests in real estate, where such an investment appears to the Trustees, in their discretion and consistent with their fiduciary obligations, to be in the best interests of the Trust Fund and its Participants and Beneficiaries, provided that nothing stated herein shall operate to preclude the appointment of an Investment Manager having responsibility for the management, acquisition, investing, and reinvesting of Fund assets, pursuant to subparagraph (f) below.

(c) To sell, exchange, convey, transfer or otherwise dispose of any property, tangible or intangible, held by them by private contract or at public auction.

(d) To exercise all rights, powers, and privileges as might be lawfully exercised by any person with respect to any stocks, bonds or other property, real or personal, held by them as Trustees.

(e) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.

(f) To appoint one or more Investment Manager (as that term is defined in Section 3(38) of the Act) who shall be responsible for the management, acquisition, disposition, investing and reinvesting of such of the assets of the Trust Fund as the Trustees shall specify. Any such

appointment shall be acknowledged in writing by the said investment manager and may be terminated by the Trustee upon thirty (30) days' written notice. The fees and expenses of such an investment manager shall be paid out of the Trust Fund to the extent permitted by law.

(g) To obtain from the Employers and the Union and from Employees, former Employees, Participants, and Beneficiaries, such information as shall be necessary, proper, or required by law for the proper administration of the Trust Fund.

(h) To appoint the Fund Manager as the party available for service of summons, subpoena, or other legal process.

(i) To enforce, on behalf of the Trust Fund, any award or decision obtained through any legal process, including but not limited to arbitration, which may require any payment to the Trust Fund or for the benefit of Participants and Beneficiaries of the Trust Fund under this Trust Agreement.

(j) To make other rules and regulations not inconsistent with the terms hereof to carry out the provisions hereof and to do all acts whether or not expressly authorized which they may deem necessary or proper for the protection of the property held hereunder.

2. The Trustees may exercise all rights or privileges granted to the policyholder by the provisions of any policy or policies of insurance or allowed by any insurance company and may modify or agree with any insurance company upon changes in the insurance policy or policies; provided, however, that an insurance company shall not be required to inquire into the authority of the Trustees in this regard.

3. Except as authorized under the Act no Trustee shall receive compensation for the performance of duties as Trustee except that such Trustee shall be reimbursed for all reasonable and necessary expenses properly and actually incurred in the performance of such duties and the costs and expenses (including counsel fees) of any suit or proceeding brought by or against any Trustee in such person's capacity as Trustee may be paid from the Trust Fund, unless such Trustee is determined in said suit or proceeding to have violated a duty as a Trustee. Expenses of education, if prudent, may be deemed reasonable and necessary.

4. Trustees shall promulgate a Plan of Benefits and such rules and regulations as are necessary for the sound and efficient administration of the Trust.

5. The Trustees may employ such agents, legal counsel, enrolled actuaries, independent qualified certified public accountants, managers, and clerical and administrative personnel as may, in their sole discretion, be deemed proper and necessary for the administration of the Trust.

6. The Trustees may, by resolution, or by the adoption of by-laws or by provision in this Trust Agreement, allocate fiduciary and Trustee responsibilities and various administrative duties to committees or subcommittees constituted of one or more Trustees; and the Trustees may delegate, in their sole discretion and consistent with the Act, such responsibilities and duties to any other individual whom they deem appropriate. The Trustees will not be deemed responsible for any errors or omissions of individuals to whom such responsibilities or duties have been properly allocated or delegated.

7. The Trustees may employ or contract for the services of an individual, firm or corporation, to be known as "Fund Manager", who shall, under the direction of the Trustees or under the direction of an appropriate committee of the Trustees, administer the office or offices of the Trust Fund and of the Trustees; coordinate and administer the accounting, bookkeeping, and clerical services; provide for the coordination of actuarial services furnished by the consulting actuary, if any, prepare (in cooperation, where appropriate, with the consulting actuary and independent auditor) all reports and other documents to be prepared, filed, or disseminated by or on behalf of the Trust in accordance with law; assist in the collection of contributions required to be paid to the Trust Fund by Employers; and perform such other duties and furnish such other services as may be assigned, delegated, or directed or as may be contracted by or on behalf of the Trustees. The Fund Manager shall be the custodian on behalf of the Trustees of all documents and other records of the Trustees and of the Trust Fund.

ARTICLE IV

1. (a) Each Employer shall contribute to the Fund the amount required by the Collective Bargaining Agreement to which it is a party or otherwise bound existing between said Employer and the Union, together with any amendments, supplements or modifications thereto.

(b) All contributions shall be payable in the form of check or money order and shall be paid in the manner and form specified by the Trustees or as may be set forth in the Collective Bargaining Agreement or written agreement with the Employer.

(c) Each Employer shall be responsible only for the contributions payable by him on account of Employees covered by him, except as may be otherwise provided by law. No Employer shall be responsible for the contributions, payments or other obligations of any other Employer.

(d) In addition to any other remedies to which the parties to the Collective Bargaining Agreement may be entitled, an Employer in default for ten (10) working days may be required at the discretion of the Trustees and, to the extent permitted by law, to pay interest at a rate of eight (8) percent from the date when payment was due to the date when payment is made, together with all expenses of collection incurred by the Fund, including legal fees and costs. The Trustees may take any action necessary to enforce payment of the contributions due hereunder, including but not limited to, proceedings at law and in equity, or they may, for good reason, in their sole discretion, refrain from taking any such action.

(e) An Employer, on forms prescribed by the Trustees, shall make all reports on contributions due and owing, or previously made to the Fund. The Trustees may at any time have an audit made by an independent qualified public accountant of the payroll and wage or other relevant financial records of any Employer in connection with the said contributions and/or reports.

2. No Employer or Employee of any Employer, or Participant or Beneficiary, nor the Union nor any person claiming by, through or under any of them, shall have the right, title or interest in or to the Trust Fund or any part thereof, except the right of any Participant or Beneficiary to benefits as provided by the Plan.

No Employee shall have the option to receive, instead of the benefits provided for by the Plan, any part of the contribution of any Employer. No Employee shall be entitled to receive a cash consideration in lieu of the benefits provided by the Plan. No Employee shall have the right to anticipate, alienate, sell, transfer, pledge, hypothecate, assign or otherwise encumber any interest whatsoever in any benefit to which he or she may be or become entitled under the Plan, provided, however, that benefits may be assigned by the Employee to the Health Care Institute, medical doctor, laboratory or such other medical service which furnishes services for which benefits are payable; nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled thereto.

ARTICLE V

1. (a) The Fund shall be administered by an even number of Trustees, no less than six in number, half of whom shall be designated by the Union and shall act as Union Trustees, and half of whom shall be designated by the Hudson County Contractors Association on behalf of the Employers and shall act as Employer Trustees. The respective Trustees shall serve at the will of the Union or the Employers, respectively, appointing them. The Union or the Employers shall select successor Trustees whenever vacancies occur within their respective appointments. A vacancy shall be deemed to have occurred whenever a Trustee resigns or when a Trustee is removed by the party which appointed him, or by reason of death or incapacity of a Trustee.

(b) A Trustee may resign and become and remain fully discharged from all further duty or responsibility under this Trust Agreement by giving seven (7) days' notice in writing to the remaining Trustees and to the party by whom he was appointed, or such shorter notice as the

remaining Trustees may accept as sufficient, provided that such notice shall state a date on which such resignation shall take effect. Such resignation shall take effect on the date specified in the notice unless a successor Trustee shall have been appointed at an earlier date, in which event such resignation shall take effect immediately upon the appointment of such successor Trustee. An Employer Trustee may be removed from office at any time by action of the Employers, written notice of such action to be delivered to the Trustees serving at that time. A Union Trustee may be removed from office at any time by action of the Union, written notice of such action to be delivered to the Trustees serving at that time. However, no Union or Employer Trustee may be removed from office without just cause.

(c) If an Employer Trustee shall die, become incapable of acting under this Trust Agreement, resign, or be removed, a successor Employer Trustee shall be immediately appointed by the Employers such appointment to be in writing and to be delivered to the Trustees serving at that time. If any Union Trustee shall die, become incapable of acting under this Trust Agreement, resign, or be removed, a successor Union Trustee shall be immediately appointed by the Union, such appointment to be in writing and to be delivered to the Trustees serving at that time. It is the intention hereof that the Fund shall, at all times, be administered by an equal number of Employer Trustees and Union Trustees.

(d) Any successor Trustee shall immediately upon his appointment as Trustee and his acceptance of the Trusteeship in writing, become vested with all of the property rights, powers and duties of a Trustee under this Trust Agreement with like effect as if originally named as a Trustee, without the necessity of any formal conveyance or other instrument of title. No successor Trustee shall in any way be liable

or responsible for any act of omission in the administration of the Trust prior to the date any such Trustee became a Trustee. The Trustees shall not be liable for the acts or omissions of any investment manager, attorney, agent or assistant employed by them in pursuance of this Agreement, provided such investment manager, attorney, agent or assistant was selected pursuant to this Trust Agreement.

(e) No vacancy or vacancies in the office of the Trustees shall impair the power of the remaining Trustees, acting in the manner herein provided, to administer the affairs of this Trust, unless such vacancy or vacancies result in there being no Employer Trustee duly appointed by the Employers or no Union Trustee designated by the Union.

(f) The Trustees shall select a Chairman and a Co-Chairman for this Trust Fund. In even numbered years, the Chairman shall be selected from among the Union Trustees and the Co-Chairman shall be selected from among the Employer Trustees. In odd-numbered years the Chairman shall be selected from among the Employer Trustees and the Co-Chairman from the Union Trustees. Each such officer shall serve for a term of one (1) year or until a new selection is made. The Chairman shall notify the Trustees of meetings and preside over meetings, and in addition shall perform such other duties as the Trustee may provide. The Trustees may select from among them a Secretary or Acting Secretary. The Secretary shall be responsible to see that minutes of each meeting of the Trustees are prepared and provided to each Trustee, which minutes shall, upon approval by the Trustees, comprise the official record of such meetings. In the event of the resignation, death, disqualification, disability, failure or refusal to act, or removal of either of such officers, subsequent appointments shall be made by the Trustees.

(g) At any meeting the Employer Trustees and the Union Trustees shall have the same number of votes, irrespective of the number of Employer Trustees and Union Trustees present at such meeting. If more than one Employer Trustee votes on the same issue, each such Employer Trustee shall have an equal vote. If more than one Union Trustee votes on the same issue, each such Union Trustee shall have an equal vote.

(h) A quorum for the transaction of business shall consist of four Trustees; provided, however, that there are at least two Employer Trustees and two Union Trustees in attendance to constitute such quorum.

(i) Action by the Trustees on any proposition may be taken without a meeting of Trustees, provided all Trustees agree thereon in writing.

(j) All action by the Trustees shall be by affirmative majority decision provided, however, that said majority is comprised of at least two Employer Trustees and two Union Trustees. Such majority vote shall govern not only this Article but any provision of this Trust Agreement which refers to action by the Trustees. In the event any matter presented for decision cannot be decided because of a tie vote or the lack of a quorum at two consecutive meetings, the matter shall remain in status quo pending arbitration as set forth at subparagraph 2(a), hereinbelow.

(k) The Trustees shall meet regularly no less than semi-annually on five (5) days' written notice to the Trustees at a time and place designated by the Chairman. The Chairman shall call, on reasonable written notice, such other meetings of the Trustees as he deems necessary in the interests of the Trust Fund. The Chairman, on reasonable notice to the Trustees, shall also call a meeting on the written request of one or more Trustee to act upon any matter or business proposed in such written request. At each meeting, the Chairman shall prepare and present an agenda of the business to be conducted.

2. (a) In the event Trustees cannot decide any matter or resolve any dispute because of a tie vote or in the event decisions cannot be made because of the lack of a quorum at two successive meetings of the Trustees, then in either of such events, a majority of the Trustees, may submit the matter to an impartial arbitrator for hearing and determination of the matter, issue or dispute. The Employer and Union representatives shall agree upon an impartial arbitrator to decide such matter, issue or dispute, and in the event of their failure to agree, such impartial arbitrator to decide such matter, issue or dispute shall, on petition of either party, be designated by the American Arbitration Association.

(b) The decision or award of an arbitrator acting pursuant to this Article shall be in writing and shall be final and binding on all parties and persons concerned and shall be made within ten (10) regular working days after the arbitrator receives all the evidence properly and timely offered. The arbitrator shall not have the power or authority to change or modify the basic provisions of this Trust Agreement or any applicable Collective Bargaining Agreement.

(c) The cost and expense incurred by the Fund incidental to any arbitration proceeding shall be a proper charge against the Fund, and the Trustees are authorized and directed to pay such charges.

(d) The Trustees shall establish rules and procedures for reviewing claims for benefits which have been denied.

(e) The Trustees shall have the power to allocate to any Trustee o

Committee of Trustees, or to a committee of former Trustees, the full power and authority to act as a reviewing authority in the processing of any matter, issue or dispute which may become the subject of review in accordance with the provisions of Section 2(d) of this Article. The decision of such reviewing authority shall be final and not subject to further review by the Board of Trustees.

3. The Trustees shall keep true and accurate books of account and record all their transactions as Trustees and of transactions of the Plan, which shall be audited at least once a year, and at such other times as the Trustees may determine, by an independent qualified certified public accountant to be chosen by the Trustees. Every Trustee shall have full access to the books of account and records of the Trustees and of the Trust. The expenses of any audit shall be paid from the Trust Fund. The reports of such audits shall be available at the office of the Fund for inspection by interested persons and a copy of every such report shall be provided by the Chairman to each Trustee within a reasonable time after its receipt.

4. (a) Each of the Trustees shall be protected in acting upon any paper or document believed by him to be genuine and to have been made, executed or delivered by the proper parties purporting to have made, executed or delivered the same, and shall be protected in relying and acting upon the opinion of legal counsel in connection with any matter

pertaining to the administration or execution of the Plan. The Trustees may rely upon an instrument in writing purporting to have been signed by, or upon telegrams purporting to have been transmitted by, any Trustee Employer of the Union, as conclusive evidence of the fact that the said Trustee, Employer or the Union has duly taken the action stated to have been taken in such instrument or telegram.

Every act done, power exercised or obligation assumed by the Trustees pursuant to the provisions of this Agreement or in carrying out this Trust shall be done, exercised or assumed, as the case may be, by the Trustees in their capacity as Trustees and not otherwise, and every person, corporation, partnership, association or firm contracting or otherwise dealing with the Trustees shall look only to the Trust Fund for payment under such contract or any obligation arising under this Agreement in whole or in part.

(c) Except as provided by law, no Trustee shall be liable for any act, omission or failure to act, or for any mistake of fact or law or error of judgment or for loss or depreciation in the value of the Trust Fund occurring by reason thereof; nor shall any Trustee be liable for the acts or defaults of any other Trustee under this Trust Agreement, or for any acts or defaults of any officer, agent, attorney or employee in whose appointment the Trustee shall have exercised reasonable care and diligence.

5. (a) No party dealing with the Trustees shall be obligated to inquire into the necessity or expedience of any act of the Trustees, and with respect to every instrument executed by the Trustees it shall be conclusively presumed in favor of every person relying thereon that

(1) at the time of the delivery of said instrument the Trust hereby created was in full force and effect, (2) said instrument was executed in accordance with the terms and conditions contained in this Trust Agreement, and (3) the Trustees were duly authorized and empowered to execute such instrument.

(b) The receipt given by the Trustees for any moneys or other properties received by them shall effectively discharge the person or persons paying or transferring the same, and no such person or persons shall be bound to see the application, or be answerable for the loss or misapplication thereof.

6. The Trustees, and any individuals who are employees, agents or representatives of the Trustees or the Trust Fund, who are entrusted with custody of any portion of the Trust Fund shall be bonded by a duly authorized Surety Company in such amount as required by the Act. The cost of the premiums for such bond shall be paid out of the Trust Fund.

7. The Trustees may in their discretion obtain and maintain policies of insurance, to the extent permitted by law, to insure themselves, the Trust Fund as such, as well as employees, agents or representatives of the Trustees or of the Trust Fund, while engaged in business and related activities for and on behalf of the Trust Fund (1) with respect to liability to others as a result of acts, errors or omissions of such Trustee or Trustees, employees, agents or representatives, respectively, provided such insurance policy shall provide recourse by the insurer against the insured as may be required by law and (2) with respect to injuries received or property damaged suffered by them. The cost of the premiums for such policies of insurance shall be paid out of the Trust Fund.

8. The Trustees shall adopt, as appropriate, funding policies which will provide for the adequate funding of all benefit programs adopted by the Trustees.

ARTICLE VI

1. The provisions of this Trust Agreement may be amended at any time by a written instrument executed by all Trustees, except that no amendment shall (1) alter the general purpose of this Trust and Plan to provide for the payment of welfare benefits as more fully described in Article II, Section 1(a) hereof or (2) eliminate or modify the provisions of Article III, Section 2 or Article V, Section 1(a) and (e) hereof. Any amendment may have retroactive effect, if deemed necessary by the Trustees.

2. This Trust Agreement shall cease and terminate upon the happening of any one or more of the following events:

- (a) In the event the Trust Fund shall, in the opinion of the Trustees, be inadequate to carry out the intent and purpose of this Trust Agreement, or be inadequate to meet the payments due, or to become due, under this Trust Agreement and under the Plan or Benefits to Participants and Beneficiaries already drawing benefits;

- (b) In the event there are no individuals living who can qualify as Participants or Beneficiaries hereunder;

- (c) In the event of termination by action of the Union and the Employers;

- (d) In the event of termination as may be otherwise provided by law.

3. In the event of termination of this Trust Agreement, the Trustees shall use the moneys available in the Trust Fund to pay any and all obligations of the Trust Fund. Should there be a surplus in the Trust Fund after the payment of all obligations, any and all such surplus shall be applied by the Trustees in such manner as will in their opinion best effectuate the purpose of the Trust Agreement. In the event the moneys remaining in the Trust Fund are insufficient to pay when due the premium or premiums on any or all of the insurance coverage, such moneys shall be distributed in the manner agreed upon by the Trustees. Upon the termination of the Trust Agreement, the Trustees shall immediately notify any insurance carrier named in any policies of insurance and shall continue as Trustees for the purpose of liquidation, with full powers as herein provided, and may execute any and all instruments which may be required by the insurance carrier with regard to the insurance coverage.

4. All business and all instruments executed and conducted by the Trustees shall be in the name of the Hudson County Carpenters Welfare Fund.

5. This Trust is created and accepted in the State of New Jersey, and all questions pertaining to the validity or construction of this instrument and of the acts and transactions of the parties and persons referred to herein which arise or appertain to this Trust shall be determined in accordance with the laws of the State of New Jersey, except to the extent governed by federal law.

6. Should any provision of this Revised Agreement and Declaration of Trust be held to be unlawful, or unlawful as to any person or instance, such holding shall not adversely affect any other provision.

herein contained nor the application or any such other provision to any other person or instance, unless such illegality shall make impossible the functioning of the Trust Fund.

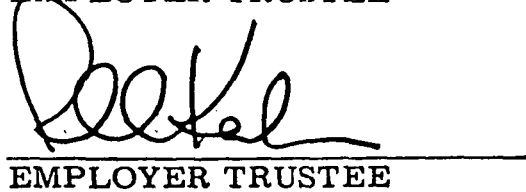
7. In no event shall any Employer, directly or indirectly, receive any refund on contributions made by it to the Trust Fund (except in the case of an overpayment of contributions, to the extent permitted by law); nor shall an Employer directly or indirectly participate in the disposition of the Trust Fund or receive any benefit from the Trust Fund. Upon payment of contributions to the Trustees, all responsibilities of the Employer for each contribution shall cease and such Employer shall have no responsibilities for the acts of the Trustees, nor shall an Employer be obliged to see to the application of any funds or property of the Trust or to see that the terms of the Trust have been complied with.

IN WITNESS WHEREOF, the Trustees have executed this Revised Agreement and Declaration of Trust to evidence their acceptance of the trusts hereby created and their agreement to be bound hereby the day and year first above written.


UNION TRUSTEE


EMPLOYER TRUSTEE


UNION TRUSTEE


EMPLOYER TRUSTEE


UNION TRUSTEE


EMPLOYER TRUSTEE

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FILED

AUG 17 1989

CIRCUIT COURT FOR BALTIMORE CITY

JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

*

* * * * *

NOTICE OF REMOVAL

Union Labor Life Insurance Company ("Union Labor Life"), defendant, by Kenneth L. Thompson and Brian S. Smith, its attorneys, hereby gives notice, pursuant to the provisions of Title 28 U.S.C. § 1146, et seq., that it has removed the action entitled "Joseph Rolnik, et al. v. The Union Labor Life Insurance Company, et al.", Circuit Court for Baltimore City - Case No. 87313071/CL73531" (hereinafter referred to as the "State Court Action") from said Court to the United States District Court for the District of Maryland. A true and correct copy of this Notice of Removal is being filed with the Clerk of the said Circuit Court for Baltimore City to thereby effect removal to the United States District Court for the District of Maryland, and the State Court shall proceed no further, unless the case is remanded.

for

Statement of Facts

For its Statement of Facts entitling it to remove the State Court Action, General Motors says as follows:

1. Plaintiffs, Joseph and Deborah Rolnik, commenced the State Court Action on or about November 13, 1987 when they filed a Complaint and Request for Jury Trial (the "Complaint") against Union Labor Life, et al.

2. The Complaint, and the subsequent First Amended Complaint, consisted of four state common law causes of action, to wit: misrepresentation; fraud; breach of contract; and declaratory judgment.

3. Plaintiff Deborah Rolnik is a resident of the State of Maryland and defendant Sheppard-Pratt Hospital is a corporate resident of the State of Maryland.

4. Because there was an absence of complete diversity, Union Labor Life was not entitled to remove the case to Federal Court at the time the complaint was filed and first amended.

5. On or about August 2, 1989, the plaintiffs filed a Second Amended Complaint which added two causes of action under the Employee Retirement Income Security Act of 1974 ("ERISA") to the original causes of action.

6. Because the plaintiffs have added ERISA counts to their complaint, this case now presents a federal question.

7. Union Labor Life is entitled, pursuant to 28 U.S.C. §1331, and in compliance with Local Rule 103, to have this case heard in this Court.

8. In addition, concurrent with their filing of the Second Amended Complaint in State court, the plaintiffs filed a complaint in this Court. The complaint has been filed under case number B 89-2234.

9. The plaintiffs' federal Complaint alleges the same four common law causes of action and two ERISA claims, and adds two more ERISA claims, over which this court has exclusive jurisdiction.

10. A copy of all of the pleadings served on Union Labor Life in the State Court Action are attached hereto as Exhibit A. A copy of all of the pleadings served on Union Labor life in the federal case are attached hereto as Exhibit B.

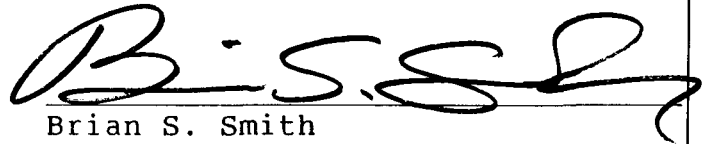
11. This Court has jurisdiction of this action pursuant to Title 28 U.S.C. § 1331 and § 1441, et seq., in that the ERISA claims in both the federal complaint and the Second Amended Complaint present federal questions. Furthermore, this Notice of Removal is filed within the time provided by law.

12. Union Labor Life has mailed a copy of this Notice of Removal, first class, postage prepaid to all parties and has filed a copy of the Notice of Removal with the Clerk of the Circuit Court for Baltimore City, thereby giving written notice of the filing of this Notice of Removal.

WHEREFORE, Union Labor Life prays that its Notice of Removal be inquired into, that the State Court Action be removed to the United States District Court for the District of Maryland, and that the removed action be consolidated with the recently filed federal Complaint (case number B 89-2234).



Kenneth L. Thompson
Federal Trial Bar No. 03630



Brian S. Smith
Trial Bar No. 05719
Piper & Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201
(301)539-2530

Attorneys for Defendant,
Union Labor Life

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JOSEPH ROLNIK, et al. *

Plaintiffs *

v. *

THE UNION LABOR LIFE *

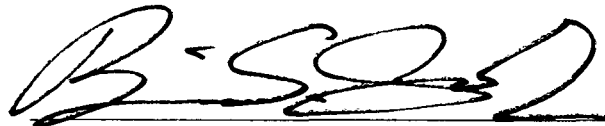
INSURANCE COMPANY, et al. *

Defendants *

* * * * *

RULE 32A CERTIFICATION

I, Brian S. Smith, counsel to Union Laobr Life Insurance Company, a defendant herein, certifies, pursuant to Rule 103, Local Rules of the U.S. District Court for the District of Maryland, that all filings in the state court action entitled "Joseph Rolnik, et al. v. The Union Labor Life Insurance Company, et al.", Circuit Court for Baltimore City - Case No. 87313071/CL73531" have been filed in the United States District Court for the District of Maryland as Attachment A to the Notice of Removal.

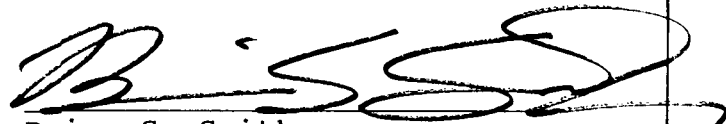


Brian S. Smith
Trial Bar No. 05719
Piper & Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, MD 21201
(301)539-2530

Attorney for Defendant,
Union Labor Life

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 1989, a copy of the foregoing Notice of Removal and Rule 103 Certification were mailed, postage prepaid, to: Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, and Glenn Shaffer, Administrator, 840 Bear Tavern Road, West Trenton, New Jersey 08628.



Brian S. Smith

FILED

AUG 16 1989

JOSEPH ROLNIK, et al.

IN THE

Plaintiffs

CIRCUIT COURT FOR BALTIMORE CITY

v.

* FOR

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* CASE NO: 87313071/CL73531

*

* * * * *
THE UNION LABOR LIFE INSURANCE COMPANY ANSWER TO
SECOND AMENDED COMPLAINT

The Union Labor Life Insurance Company, a defendant, by its attorneys, answers Plaintiff's Second Amended Complaint as follows:

FIRST DEFENSE

The Amended Complaint fails to state any claim against the Defendant, Union Labor Life, upon which relief can be granted.

SECOND DEFENSE

Plaintiffs' common law causes of action (counts 1, 2, 3, and 6) are preempted by the federal Employee Retirement Income Security Act ("ERISA").

THIRD DEFENSE

Plaintiffs' claims are barred by the applicable statute of limitations.

FOURTH DEFENSE

Plaintiffs' ERISA claims are not properly before this court because the plaintiffs have not exhausted the appropriate interplan appeal procedures.

FIFTH DEFENSE

All of the plaintiffs' punitive damage claims are barred under ERISA.

SIXTH DEFENSE

The treatments redereed to plaintiff Deborah Rolnik after six months of hospitaliztion were not medically necessary, and therefore, were not covered under the policy.

SEVENTH DEFENSE

Payments were made on behalf of the plaintiffs, that the plaintiffs were not entitled to under the insurance policy, during the period of April, 1985 to April, 1986.

EIGHTH DEFENSE

Union Labor Life did not negligently or fraudulently misrepresent the scope of the policy to the plaintiffs or to Sheppard-Pratt Hospital.

NINTH DEFENSE

Union Labor Life did not breach its contract with the Plaintiff, Joseph Rolnik.

TENTH DEFENSE

Pursuant to Maryland Rule 2-323(d), Defendant, the Union Labor Life Insurance Company, generally denies liability as to Counts I, II and III, IV, and V.

SPECIFIC RESPONSES

1. Union Labor Life is without knowledge or information sufficient to form a belief as to the truth of this averment, and, accordingly, is unable to admit or deny.

2. Union Labor Life is without sufficient knowledge or information to form a belief as to the truth of this averment and, accordingly, cannot admit nor deny.

3. Union Labor Life admits the averments.

4. Union Labor Life denies the averments.

5. Union Labor Life admits the allegations.

6. Union Labor Life denies the allegations.

7. Union Labor Life denies the allegations.

8. Union Labor Life is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph Eight and accordingly is unable to admit or to deny.

9. Union Labor Life admits the allegations.

10. Union Labor Life admits the averments.

11. Union Labor Life is without knowledge or information sufficient to form a belief as to the truth of the averment in Paragraph Eleven and, accordingly, is unable to admit or deny same.

12. Union Labor Life denies Paragraph 12.

13. Union Labor Life is without information or knowledge sufficient to form a belief as to the truth of this averment and, accordingly, is unable to admit or deny.

14. Union Labor Life denies the allegations.

15. Union Labor Life admits the allegation.

16. Union Labor Life admits that this court has concurrent jurisdiction over the ERISA counts in this second amended complaint.

17. Union Labor Life incorporates by reference herein Paragraphs One through Seventeen above as if the same were fully set forth.

18 - 23. Union Labor Life denies the allegations.

24. Union Labor Life incorporates by reference herein Paragraphs 1 through 23 above as if the same were fully set forth.

25 - 30. Union Labor Life denies the allegations.

31. Union Labor Life incorporates by reference herein Paragraphs 1 through 30 above as if the same were fully set forth.

32. - 34. Union Labor Life denies the allegations.

35. Union Labor Life incorporates by reference herein Paragraphs 1 through 34 above as if the same were fully set forth.

36. Union Labor Life denies the allegations.

37. Union Labor Life incorporates by reference herein Paragraphs 1 through 36 above as if the same were fully set forth.

38. Union Labor Life denies the allegations.

39. Union Labor Life incorporates by reference herein Paragraphs 1 through 38 above as if the same were fully set forth.

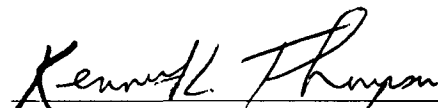
40 - 41. These paragraphs are of procedural nature and need not be admitted or denied.

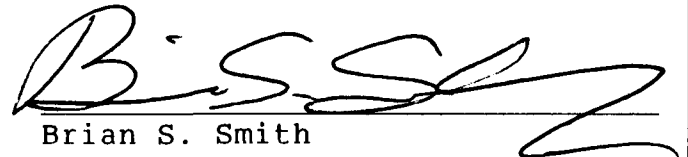
WHEREFORE, having fully answered the Second Amended Complaint, Defendant, Union Labor Life, requests that this Court declare as follows:

A. That all relief requested by the Plaintiffs be denied.

B. That the Court award to Union Labor Life all of its attorneys fees and costs incurred in defending this action.

C. That this Court decree such other and further relief as it deems appropriate in the interest of fairness and justice.


Kenneth L. Thompson

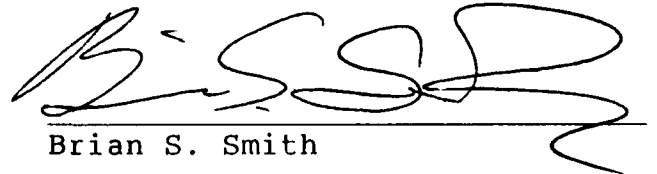

Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Attorneys for The Union Labor
Life Insurance Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 16th day of August, 1989, a copy of the foregoing was mailed to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285; Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, and Hudson County Carpenters, Welfare, Pension, Vacation and Annuity Fund, care of Glenn Shaffer, Administrator, 840 Bear Tavern Road, West Trenton, New Jersey 09628.


Brian S. Smith

FILED

AUG 11 1989

CIRCUIT COURT FOR
BALTIMORE CITY

59
JD

JOSEPH ROLNIK
and
DEBORAH ROLNIK

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

Defendants

* * * * *

IN THE
CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

REQUEST FOR PRODUCTION OF DOCUMENTS

Now comes Sheppard & Enoch Pratt Hospital, Defendant, by its attorneys, Thomas M. Trezise and Semmes, Bowen & Semmes, and pursuant to the Maryland Rules of Procedure requests the following:

That Defendant Union Labor Life Insurance Company produce and permit this Defendant to inspect, copy, and photograph all documents and writings in the Defendant's possession, custody or control which embody, refer to, or relate in any way to the following subjects, other than written materials prepared in anticipation of litigation or for trial. The Defendant requests that the documents and writings herein requested be produced at the offices of this Defendant's attorneys, Semmes, Bowen & Semmes, 401 Washington Avenue, Towson, MD 21204 on the 9th day of September, 1989 except that compliance with this request may be made by mailing copies of such documents to this Defendant's attorneys.

T

1. All curriculum vitae for all doctors, psychiatrists, psychologists or therapists who performed utilization reviews identified in Answer to Interrogatory No. 4 as propounded by the Defendant.

2. All documents which pertain to reviews for medical necessity initiated by Union Labor Life in the past ten years.

3. All documents which delineate the criteria used by Union Labor Life to determine whether any given medical claim or course of treatment constitutes a medical necessity.

4. All documents which detail the criteria used by Union Labor Life to initiate the review of a given health care claim and/or course of treatment for the purposes of establishing the medical necessity of such treatment and/or claim.

5. All documents which Union Labor Life contends support its decision to discontinue any further coverage and/or payment for the psychiatric treatment of Deborah Rolnik.

6. All documents which support Union Labor Life's determination that a utilization review was warranted in the case of Plaintiff Deborah Rolnik.

7. All documents at Union Labor Life relating to the utilization review and cut off of payments for the psychiatric care and treatment of Deborah Rolnik at Sheppard & Enoch Pratt Hospital.

8. All documents relating to each and every instance in which Union Labor Life attempted to discontinue payment and/or deny coverage for the psychiatric claim and/or treatment of the Plaintiff Deborah Rolnik.

9. Produce for inspection and copying all documents identified in Answer to the Interrogatories propounded by the Defendant Sheppard & Enoch Pratt Hospital.

Thomas M. Trezise
Thomas M. Trezise
Semmes, Bowen & Semmes
P.O. Box 6705
Towson, MD 21285-6705
296-4400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 1989, a copy of the Request for Production of Documents was mailed, postage pre-paid, to Mark T. Mixter, Esq., Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, MD 21202; Kenneth L. Thompson, Esq., Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore,

MD 21202; Kristine A. Crosswhite, Esq., Miles &
Stockbridge, 10 Light Street, Baltimore, MD 21202.

Thomas M. Trezise
Thomas M. Trezise
Semmes, Bowen & Semmes
P. O. Box 6705
Towson, MD 21285-6705
296-4400

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FILED

AUG 11 1989

JOSEPH ROLNIK
and
DEBORAH ROLNIK

CIRCUIT COURT FOR
BALTIMORE CITY*

IN THE
CIRCUIT COURT

Plaintiffs

FOR

v.

BALTIMORE CITY

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

87313071/CL73531

Defendants

* * * * *

INTERROGATORIES

TO: Union Labor Life Insurance Company

BY: Sheppard & Enoch Pratt Hospital

These Interrogatories are propounded pursuant to the Rules of Procedure which require that they be signed and answered under oath. Where the name or identify of a person are required, please state the full name, home and business address. Unless otherwise indicated, these Interrogatories refer to the time, place, and circumstances of the occurrence mentioned or complained of in the pleadings. Knowledge or information of a party shall include that of the party's agents, representatives, and unless privileged, attorneys. These Interrogatories are continuing in character so as to require Supplemental Answers if you or your attorney obtain further information between the time answers are served and the time of trial.

You and Your refer to Union Labor Life Insurance Company and all businesses in which Union Labor Life provides or provided insurance coverage for medical and psychiatric care and treatment to Plaintiff Deborah Rolnik.

1. Enumerate the number of reviews for medical necessity which were initiated by Union Labor Life by date and year in each of the past ten years, to include the name of the patient in each instance, employee at Union Labor Life who initiated such review, nature of treatment involved, length of stay in each case, outcome of such

review(s)(denial of further coverage, etc.), and final resolution of the matter (settlement, trial, etc.) and identify all documents which pertain to the manner in which each such review was conducted and its final resolution.

2. Provide in detail the criteria upon which you base the denial of further insurance coverage and/or payment based on the lack of medical necessity in the case of both long-term psychiatric treatment and long-term medical treatment generally to include how you define the term "medical necessity" in the context of evaluating individual health care claims and identify all documents which would substantiate the use of such criteria in evaluating claims and course of treatment.

3. Provide in detail the criteria used by Union Labor Life to initiate a review of a given health care claim and/or course of treatment for the purposes of establishing the medical necessity of such treatment and/or claim to include the names and title of those Union Labor Life employees involved who made such a decision and the factors in each case which prompted such a review.

4. Identify all doctors, psychiatrists, psychologists, or therapists who performed utilization reviews at the request of Union Labor Life for patients seeking and/or receiving long-term medical treatment within

the last ten years to include the number of claims denied and accepted as a result of such review(s), the employee of Union Labor Life who requested such review, and the date and year of such review in each instance.

5. State the names and addresses of all physicians or other experts whom you propose to call as witnesses, stating the subject matter on which the expert is expected to testify, the substance of the findings and opinions to which the expert is expected to testify and a summary of the grounds for each such opinion, attaching to your answer copies of all written reports made by such experts concerning those findings and opinions.

6. What criteria was used by Union Labor Life in its decision to discontinue any further coverage and/or payment for the psychiatric treatment of Deborah Rolnik and identify all documents which would support your contention.

7. What criteria was used by Union Labor Life in making its determination that a utilization review was warranted in the case of Plaintiff Deborah Rolnik and identify all documents which would support your contention.

8. Who at Union Labor Life made the ultimate decision to both conduct a utilization review and discontinue payments for the psychiatric care and treatment of Deborah Rolnik at Sheppard & Enoch Pratt Hospital pending

such review and identify all documents which would support your contention.

9. Who at Union Labor Life made the ultimate decision to deny further payments for the psychiatric care and treatment of Deborah Rolnik at Sheppard & Enoch Pratt Hospital and on what basis was that decision made enumerating the specific factors considered and identify all other persons who played a part in formulating such decision.

10. Provide each and every instance by date, reason given, and identity of employee initiating such action, in which Union Labor Life attempted to discontinue payment and/or deny coverage for the psychiatric claim and/or treatment of the Plaintiff Deborah Rolnik, and identify all documents which would support your contention.

11. Did Union Labor Life Insurance follow its usual procedure in determining that a utilization review was necessary for the purposes of evaluating the medical necessity of the treatment received by Deborah Rolnik at Sheppard & Enoch Pratt Hospital and, if not, explain in detail what procedure was followed.

12. Did Union Labor Life Insurance follow its usual procedure in refusing further payment and/or denying further coverage for the medical care and treatment of

Deborah Rolnik at Sheppard & Enoch Pratt Hospital and if not, explain in detail what procedure was followed and the manner in which the procedure followed differed from the usual procedure used by Union Labor Life in assessing such claims and/or course of treatment.

13. If you contend that the Sheppard & Enoch Pratt Hospital had an obligation to appeal the denial of benefits to Deborah Rolnik by Union Labor Life, give a concise statement of the facts upon which you rely.

14. If you contend that Joseph and Deborah Rolnik had an obligation to appeal the denial of benefits to Deborah Rolnik by Union Labor Life, give a concise statement of the facts upon which you rely.

15. State the name, address, and telephone number of any person not otherwise mentioned in answer to these Interrogatories who has personal knowledge of facts material to this case.

16. If you contend that Deborah Rolnik should have been treated at a facility different than the Sheppard & Enoch Pratt Hospital, please describe that facility, identify all such facilities available to Ms. Rolnik, and set forth the treatment plan that should have been followed at such a facility.

17. If you contend that Deborah Rolnik did not require psychiatric treatment, state the facts upon which you base that contention.

Thomas Trezise
Thomas M. Trezise
Semmes, Bowen & Semmes
P. O. Box 6705
Towson, MD 21285-6705
296-4400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 1989, a copy of the foregoing Interrogatories was mailed, postage pre-paid, to Mark T. Mixter, Esq., Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, MD 21202; Kenneth L. Thompson, Esq., Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, MD 21202; Kristine A. Crosswhite, Esq., Miles & Stockbridge, 10 Light Street, Baltimore, MD 21202.

Thomas Trezise
Thomas M. Trezise
Semmes, Bowen & Semmes
P. O. Box 6705
Towson, MD 21285-6705
296-4400

FILED

AUG 2 1989

54-I

CIRCUIT COURT FOR BALTIMORE CITY

SS.

E

JOSEPH ROLNIK, et al.

IN THE

Plaintiffs

CIRCUIT COURT

v.

FOR

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

BALTIMORE CITY

Defendants

Case No: 87313071/CL73531

* * * * *

DEFENDANT UNION LABOR LIFE INSURANCE COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO SHEPPARD-PRATT

Pursuant to Maryland Rule 2-422, Defendant Union Labor Life Insurance Company, by its attorneys Kenneth L. Thompson, Brian S. Smith, and Piper & Marbury, requests that Defendant Sheppard-Pratt Hospital produce and make available for inspection and copying by defendants the documents in its possession, custody or control described below. Defendants request that the documents be produced on or before 30 days after service of this request at the offices of its counsel, Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201, or at such time and place as counsel for the parties may mutually agree.

me

Definitions and Instructions

1. Your written response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is refused, in which event the reasons for refusal shall be stated. If the refusal relates to part of an item or category, the part shall be specified.

2. The documents shall be produced as they are kept in the usual course of business, or you shall organize and label them to correspond with categories in the request.

3. These requests are continuing in character so as to require you to promptly amend or supplement your response if you obtain further material information.

4. If in answering these requests you encounter any ambiguities construing either a request, instruction or definition, set forth the matter deemed ambiguous and the construction used in answering.

5. As used herein, the following definitions and instructions shall apply, unless the context clearly calls for a different meaning.

6. The term "person" includes any individual, joint stock company, unincorporated association or society, municipal or other corporation, the State, its agencies or political subdivisions, any court, or any other governmental entity.

7. The words "document" or "documents" as used herein means any printed, typewritten, handwritten, or otherwise recorded matter of whatever character, including but not limited to letters or other correspondence, memoranda, notes, telegrams, bulletins, agreements, calendars, diaries, telephone calls, records and slips, handwritten notes, financial records, contracts, plans and specifications, inspections or inspection reports, drafts, expense reports, bills, invoices, tabulations, work pages, photographs, prints, slides, movies, or any other pictorial representation of any kind or nature, laboratory and test data, tape recordings, or other mechanical or electronic recordings.

8. The phrase "discuss, refer or relate to" means in whole or in part stating, constituting, containing, embodying, reflecting, identifying, discussing, evaluating, examining, analyzing, reviewing, dealing with, or in any way pertaining to.

9. "Your" and "you" refer to the party to whom this request is directed, and all his predecessors, successors, assigns, as well as his agents, partners, employees, servants, representatives, and, unless privileged, his attorneys.

10. The phrase "anyone acting on his behalf" includes anyone who acts (or at the time relevant to the request did act) as the person's agent, partner, employee, representative and, unless privileged, as his attorney.

11. The terms "and" and "or" have both conjunctive and disjunctive meanings; and "any" and "all" as used herein mean "each" and "every."

12. The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.

13. The singular shall be construed to include the plural, and the plural shall be construed to include the singular.

14. If any document called for by (or responsive to) this request is withheld under any claim of privilege, furnish a statement containing the following information for each such document: the type, specific subject matter and date of the document; the identities of all authors and recipients of the document; the specific grounds for claiming that the document is privileged; and the request to which the document is responsive.

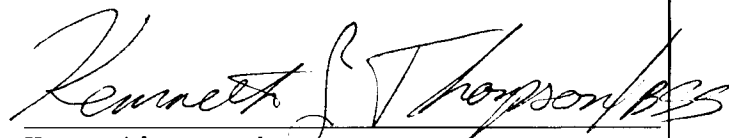
SCHEDULE OF DOCUMENTS

1. All correspondence between Sheppard-Pratt Hospital and I.E. Shaffer & Co., Union Labor Life Insurance Company, The Hudson County Carpenters Union, The Hudson County Carpenters Welfare Fund, or any member of the Rolnik family.

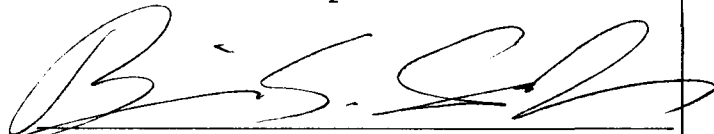
2. All bills for services rendered to plaintiff Debra Rolnik generated pursuant to her hospitalization at Sheppard-Pratt from July 1984 through March 1987.

3. All memoranda, letters, notes, or other written documents that relate to the payment, or non-payment of bills incurred by plaintiff Debra Rolnik.

4. All medical records, charts, notes, treatment summaries, patient reviews, bills, correspondence or other written documents that relate to the care or treatment of Debra Rolnik at any other facility other than Sheppard-Pratt, including, but not limited to, the Devereux School, and Meadowview Hospital.



Kenneth L. Thompson



Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorneys for The Union Labor
Life Insurance Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 2nd day of August, 1989, I mailed a copy of the foregoing to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202.



Brian S. Smith

FILED

AUG 2 1989

CIRCUIT COURT FOR BALTIMORE CITY

5-H
SS

JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

*

* * * * *

DEFENDANTS UNION LABOR LIFE INSURANCE COMPANY'S INTERROGATORIES TO DEFENDANT SHEPPARD-PRATT HOSPITAL

Defendant Union Labor Life Insurance Company by its attorneys Kenneth L. Thompson, Brian S. Smith, and Piper & Marbury, hereby propound upon Sheppard-Pratt Hospital, codefendant, the following interrogatories.

You are hereby requested to answer the interrogatories separately, fully, in writing and under oath in accordance with the definitions and instructions set forth below:

DEFINITIONS

(a) These interrogatories are continuing in character so as to require you to file supplementary answers if you obtain further or different information before trial. Final supplementary submission shall be made no later than 30 days prior to the trial of this action.

(b) The term "documents" includes, but is not limited to, all paper material of any kind, whether written, typed, printed, punched, filmed or marked in any way; recording tapes or wires; any form of magnetic data whether stored on disc, drum, core or in any other matter; film, photographs; movies; or any graphic matter, however produced or reproduced; and all mechanical or electronic sound recordings or transcripts thereof.

(c) "Your" and "you" refer to Sheppard-Pratt Hospital, Sheppard-Pratt Physicians Association, and all businesses in which Sheppard-Pratt provides or provided medical, hospital, inpatient, or psychiatric care to plaintiff Debra Rolnik, as well as their predecessors or successors as well as their agents, employees, servants, representatives, directors, officers, shareholders, and, unless privileged, their attorneys.

(d) The term "person" includes a corporation, partnership, other business association or entity, a natural person or any government or governmental body, commission, board of agency.

(e) "Identify" of "identification" when used in reference to a natural person means to state his or her full name, present address, home and business telephone numbers, and his or her present position and business affiliation. When used in reference to a person other than a natural person,

"identify" or "identification" means to state whether such a person is a corporation, partnership, or other organization, and its name, present or last known address, telephone number, and principal place of business. Once any person has been identified properly, it shall be sufficient thereafter when identifying that same person to state his or her name only.

(f) "Identify" or "identification" when used in reference to a document means to state the date, the author (or, if different, the signer or signers), the addressee and type of document (e.g. letter, memoranda, telegram, chart, etc.). If any such document, was, but is no longer in plaintiff's possession or subject to plaintiff's control, state what disposition was made of it and the reason for such disposition. In lieu of identifying any document, a true and correct copy thereof may be annexed to and incorporated in the answers to these interrogatories.

(g) "Occurrence" or "Occurrences" refer to the several incidents alleged in the plaintiffs' complaint that form the basis of said complaint.

(h) Where knowledge or information of or possession or control by a party is requested or inquired of, such request or inquiry includes knowledge, information, possession or control of or by the party's agents, servants, employees, representatives, and, unless privileged, his attorneys.

(i) Unless otherwise specifically indicated all interrogatories refer to the plaintiffs' Complaint.

INTERROGATORIES

1. Identify all experts whom you propose to call as witnesses at the trial of this case, state the qualifications and experience of each, state the subject matter on which each is expected to testify and provide the substance of the facts and opinions to which each will testify and a summary of the grounds for each such opinion.

2. Identify all doctors, psychiatrists, psychologists, or therapists who performed any examination, diagnosis, or provided any medical care in connection with the hospitalization of plaintiff Debra Rolnik between July, 1984, and April, 1987.

3. Identify each person who has given you or anyone else a signed or recorded statement relating to any occurrence, state the date each such statement was given, identify the person taking each statement and identify the present custodians of each statement or copy thereof.

4. What is the outstanding balance that you claim is owed to you in connection with the hospitalization of plaintiff Debra Rolnik. If such balance is divided between separate entities, please indentify the balance owing each.

5. Identify, item by item, the bills that you generated pursuant to the hospitalization of plaintiff Debra Rolnik between July, 1984 and March, 1987. For each bill so identified specify the amount of the bill, the date(s) the bill was incurred, whether the bill was paid, and, if paid, the date the bill was paid.

6. If the information is not readily attainable by reference to your answer to the preceeding interrogatory, state the total amount of accrued charges, both paid and unpaid, incurred by Plaintiff Debra Rolnik as of April 1, 1985, May 1, 1985, June 1, 1985, July 1, 1985, August 1, 1985, September 1, 1985, October 1, 1985, November 1, 1985, December 1, 1985, January 1, 1986, February 1, 1986, March 1, 1986, April 1, 1986 and May 1, 1986.

7. What is the criteria that Sheppard-Pratt Hospital uses when considering whether or not to discharge a long-term psychiatric inpatient?

8. What criteria was used when considering whether or not to discharge plaintiff Debra Rolnik?

9. It has been alleged that representations were made to Sheppard-Pratt Hospital that Ms. Rolnik was eligible for insurance coverage up to \$1 million. To whom was this alleged representation made, how was it made (ie. telephone, letter, etc.), what was the date, and who made the representation?

10. If in fact the representation set forth in the preceding interrogatory was made, what, if any, effect did this have on the care and treatment provided to Debra Rolnik?

11. Identify who plaintiff Debra Rolnik's medical bills were sent to?

12. What procedures does Sheppard-Pratt Hospital use to plan, evaluate the prospects, or implement the discharge of long-term psychiatric inpatients?

13. What procedures did Sheppard-Pratt Hospital use to plan, evaluate the prospects, or implement the discharge of Debra Rolnik?

14. Does Sheppard-Pratt recommend or assist long-term psychiatric inpatients in seeking alternative treatment modes, such as halfway houses or outpatient treatment programs? If so, state when such assistance is offered and the nature of the assistance offered.

15. Did Sheppard-Pratt actively recommend, seek, or assist Debra Rolnik in seeking, alternative treatment modes, such as halfway houses or outpatient treatment programs? If so, Give the reasons such recommendations were made or not made, specify the nature of such assistance, the date such assistance began, and the result of such assistance.

16. Does Sheppard-Pratt recommend that long-term inpatients seek alternative treatment modes, such as halfway houses or outpatient treatment programs, when such alternative treatments are less costly and at least as likely to be as beneficial as long-term inpatient care? Give the reasons such recommendations are made or not made.

17. Who has the ultimate decision on whether or not a long-term psychiatric inpatient is discharged?

18. Who had the ultimate decision on whether or not Debra Rolnik was discharged?

19. Why was Debra Rolnik discharged from Sheppard-Pratt?

20. Has Sheppard-Pratt ever had its bills for treatment or claims denied because the payor concluded that the care and treatments were not medically necessary?

If so, for each instance state:

a. The date such claim or bill was denied

b. By whom the claim or bill was denied

c. The nature of treatments rendered

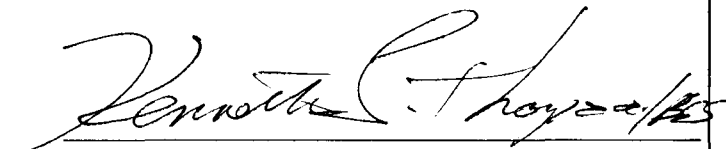
d. The length of stay

e. The disposition of the matter (ie. bills written off, lawsuit filed, claims settled, etc.)

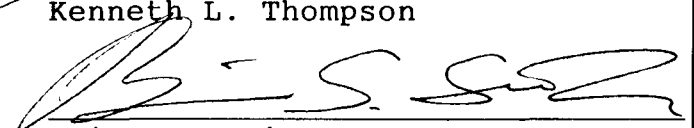
21. What actions did Sheppard-Pratt take when it received a letter from Union Labor Life, dated April 29, 1987, in which Union Labor Life stated that, based on the opinion of a reviewing physician, Debra Rolnik's hospitalization at Sheppard-Pratt beyond an intial 6-month period was not medically necessary?

22. What actions did Sheppard-Pratt take when it received a letter from Union Labor Life, dated June 4, 1987, in which Union Labor Life stated that, based on the opinion of a reviewing physician, Union Labor Life was not liable for further payments to Sheppard-Pratt?

23. What actions did Sheppard-Pratt take when it received a letter from Union Labor Life, dated July 6, 1987, in which Union Labor Life stated that, based on the opinion of a reviewing physician, and Sheppard-Pratt's inaction with regard to the previous two letters, that Union Labor Life was not liable for further payments to Sheppard-Pratt and considered the account fully settled?



Kenneth L. Thompson

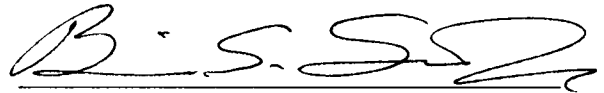


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for The Union Labor
Life Insurance Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 2nd day of August, 1989, I mailed a copy of Union Labor Life's Interrogatories to Sheppard-Pratt Hospital to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202.



Brian S. Smith

FILED

AUG 1 1989

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SS.

CIRCUIT COURT
BALTIMORE C

JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION DUCES TECUM

Notice is hereby given pursuant to the Rules of Procedure that the oral deposition for the purpose of discovery will be taken of:

Ms. Wanda Porter

Sheppard-Pratt Hospital

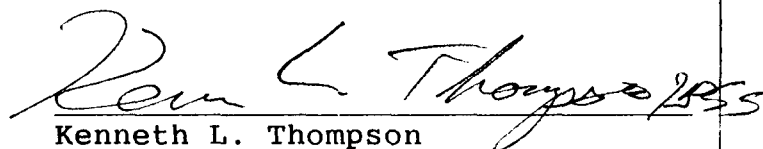
P.O. Box 6815

Towson, Maryland 21204

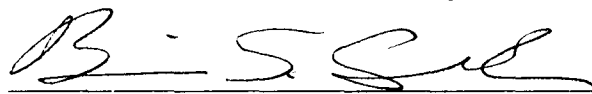
at 11:00 a.m. on Tuesday, August 8, 1989, before a Notary Public or other officer authorized by law at Sheppard Pratt Hospital, Windy Brae Building. Ms. Porter is to have with her and produce all files, documents, bills, receipts, claim forms, notes, written material, charts or items in his possession or

control that relate to the care and treatment of plaintiff Debra Rolnik, the bills therefor, and any correspondence concerning Ms. Rolnik between Sheppard Pratt and Union Labor Life or I.E. Shaffer & Co.

Said deposition will continue from time to time until completed.



Kenneth L. Thompson

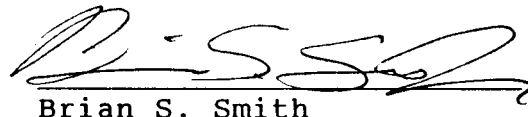


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for Defendant Union
Labor Life

CERTIFICATE OF SERVICE

I hereby certify that on this 21ST day of July, 1989, a copy of the foregoing Notice to Take Deposition Duces Tecum was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

FILED

AUG 1 1989

CIRCUIT COURT FOR
BALTIMORE CITY

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JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION DUCES TECUM

Notice is hereby given pursuant to the Rules of Procedure that the oral deposition for the purpose of discovery will be taken of:

Ms. Betty Modrak

Sheppard-Pratt Hospital

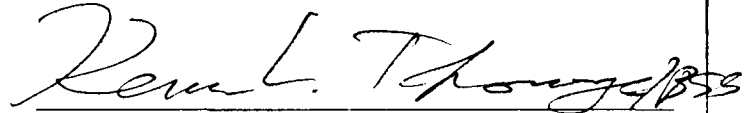
P.O. Box 6815

Towson, Maryland 21204

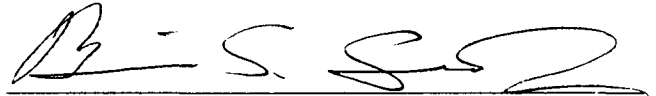
at 10:00 a.m. on Tuesday, August 8, 1989, before a Notary Public or other officer authorized by law at Sheppard Pratt Hospital, Windy Brae Building. Ms. Modrak is to have with her and produce all files, documents, bills, receipts, claim forms, notes, written material, charts or items in his possession or

control that relate to the care and treatment of plaintiff Debra Rolnik, the bills therefor, and any correspondence concerning Ms. Rolnik between Sheppard Pratt and Union Labor Life or I.E. Shaffer & Co.

Said deposition will continue from time to time until completed.



Kenneth L. Thompson



Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for Defendant Union
Labor Life

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July, 1989, a copy of the foregoing Notice to Take Deposition Duces Tecum was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

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AUG 1 1989

JOSEPH ROLNIK, et al.
Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

NOTICE TO TAKE DEPOSITION DUCES TECUM

Notice is hereby given pursuant to the Rules of Procedure that the oral deposition for the purpose of discovery will be taken of:

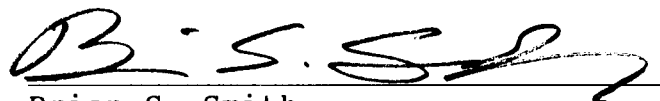
Dr. Allan Seltzer
formerly of
Sheppard-Pratt Hospital
P.O. Box 6815
Towson, Maryland 21204

at 10:00 a.m. on Monday, August 14, 1989, before a Notary Public or other officer authorized by law at Piper & Marbury, 36 South Charles Street, Baltimore, Maryland, 21202. Dr. Seltzer is to have with him and produce all files, documents, notes, written material, charts or items in his possession or control that relate to his care and treatment of plaintiff Debra Rolnik.

Said deposition will continue from time to time until
completed.



Kenneth L. Thompson



Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for Defendant Union
Labor Life

CERTIFICATE OF SERVICE

I hereby certify that on this 31ST day of July, 1989, a copy of the foregoing Notice to Take Deposition Duces Tecum was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

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FILED

AUG 1 1989

JOSEPH ROLNIK, et al.

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

Defendants

* IN THE CIRCUIT COURT FOR BALTIMORE CITY
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

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Notice is hereby given pursuant to the Rules of Procedure that the oral deposition for the purpose of discovery will be taken of:

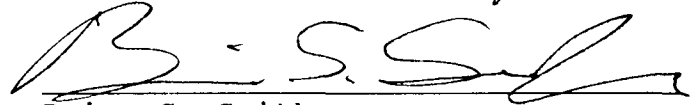
Mr. William B. Cornell III
Sheppard-Pratt Hospital
P.O. Box 6815
Towson, Maryland 21204

at 10:00 a.m. on Tuesday, August 8, 1989, before a Notary Public or other officer authorized by law at Sheppard-Pratt Hospital, Windy Brae Building. Mr. Cornell is to have with him and produce all files, documents, bills, receipts, claim forms, notes, written material, charts or items in his possession or control that relate to the care and treatment of plaintiff

Debra Rolnik, the bills therefor, and any correspondence concerning Ms. Rolnik between Sheppard Pratt and Union Labor Life or I.E. Shaffer & Co.

Said deposition will continue from time to time until completed.

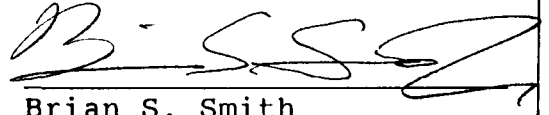

Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for Defendant Union
Labor Life

CERTIFICATE OF SERVICE

I hereby certify that on this 31ST day of July, 1989, a copy of the foregoing Notice to Take Deposition Duces Tecum was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

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JOSEPH ROLNIK, et al.

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

NOTICE TO TAKE DEPOSITION DUCES TECUM

Notice is hereby given pursuant to the Rules of Procedure that the oral deposition for the purpose of discovery will be taken of:

Ms. Jeannie Spitznagel
Sheppard-Pratt Hospital
P.O. Box 6815
Towson, Maryland 21204

at 10:00 a.m. on Tuesday, August 8, 1989, before a Notary Public or other officer authorized by law at Sheppard Pratt Hospital, Windy Brae Building. Ms. Spitznagel is to have with her and produce all files, documents, bills, receipts, claim forms, notes, written material, charts or items in his

possession or control that relate to the care and treatment of plaintiff Debra Rolnik, the bills therefor, and any correspondence concerning Ms. Rolnik between Sheppard Pratt and Union Labor Life or I.E. Shaffer & Co.

Said deposition will continue from time to time until completed.

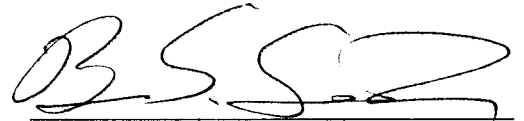

Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for Defendant Union
Labor Life

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July, 1989, a copy of the foregoing Notice to Take Deposition Duces Tecum was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

FILED

54-B.

AUG 1 1989

BS

CIRCUIT COURT FOR BALTIMORE CITY

JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION DUCES TECUM

Notice is hereby given pursuant to the Rules of Procedure that the oral deposition for the purpose of discovery will be taken of:

Ms. Catharyn Gallagher

Sheppard-Pratt Hospital

P.O. Box 6815


Towson, Maryland 21204

at 10:00 a.m. on Tuesday, August 8, 1989, before a Notary Public or other officer authorized by law at Sheppard Pratt Hospital, Windy Brae Building. Ms. Gallagher is to have with her and produce all files, documents, bills, receipts, claim forms, notes, written material, charts or items in his

possession or control that relate to the care and treatment of plaintiff Debra Rolnik, the bills therefor, and any correspondence concerning Ms. Rolnik between Sheppard Pratt and Union Labor Life or I.E. Shaffer & Co.

Said deposition will continue from time to time until completed.


Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for Defendant Union
Labor Life

CERTIFICATE OF SERVICE

I hereby certify that on this 31ST day of July, 1989, a copy of the foregoing Notice to Take Deposition Duces Tecum was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.

A handwritten signature in black ink, appearing to read "B. S. Smith", written over a horizontal line.

Brian S. Smith

E

FILED

AUG 1 1989

59-A
SS

JOSEPH ROLNIK, et al.

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

Defendants

* IN THE
* CIRCUIT COURT FOR
* BALTIMORE CITY
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531

* * * * *

DEFENDANT UNION LABOR LIFE INSURANCE COMPANY'S
REQUEST FOR PRODUCTION OF DOCUMENTS TO I.E. SHAFFER & CO.

Defendant Union Labor Life Insurance Company by its attorneys Kenneth L. Thompson, Brian S. Smith, and Piper & Marbury, pursuant to the Rules of discovery hereby propound upon I.E. Shaffer & Co., codefendant, the following request for proction of documents.

DOCUMENT REQUESTED

1. The employee benefits plan underwhich the Hudson County Carpenters Welfare Fund operated to provide union members, including plaintiff Joseph Rolnik, with benefits, including but not limited to, health and medical insurance. Such plan may be refered to as a "trust document", "employee benefits plan", "ERISA plan", etc.

Kenneth L. Thompson

Kenneth L. Thompson

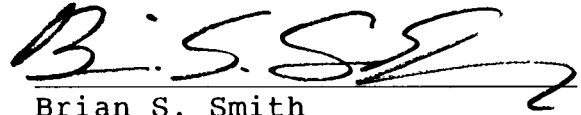
Brian S. Smith

Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530
Attorneys for The Union Labor
Life Insurance Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 31ST day of July, 1989, I mailed a copy of the foregoing to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202.



Brian S. Smith

Circuit Court for Baltimore City
Saundra E. Banks, Clerk
111 N. Calvert St. - Room 462
Baltimore, Md. 21202

WRIT OF SUMMONS

CERTIFIED MAIL

Case Number 87313071/CL73531

STATE OF MARYLAND,

CITY OF BALTIMORE TO WIT:

2nd AMENDED COMPLAINT

TO: HUDSON COUNTY CARPENTERS, WELFARE, PENSION, VACATION AND ANNUITY FUNDS
C/O I. E. SHAFFER
S/O: GLEN SHAFFER, ADMINISTRATOR
840 BEAR TAVERN RD.
WEST TRENTON, NEW JERSEY 08628

You are hereby summoned to file a written response by pleading or motion in this Court to the attached
Complaint filed by JOSEPH ROLNICK, ETAL 15919 FORSYTHIA CIRCLE DELRAY BEACH, FLORIDA 33445
(Name & Address)

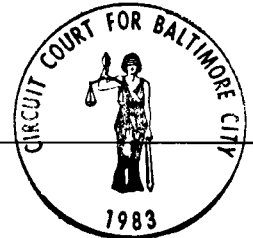
60

within _____ days after service of this summons upon you.

WITNESS the Honorable Chief Judge of the Eighth Judicial Circuit of Maryland.

Date Issued 08/04/89

Saundra E. Banks
CLERK Clerk
Circuit Court for Balto. City



TO THE PERSON SUMMONED:

1. PERSONAL ATTENDANCE IN COURT ON THE DAY NAMED IS NOT REQUIRED.
2. FAILURE TO FILE A RESPONSE WITHIN THE TIME ALLOWED MAY RESULT IN A JUDGMENT BY DEFAULT OR THE GRANTING OF THE RELIEF SOUGHT AGAINST YOU.

SHERIFF'S RETURN

Person Served _____	Time _____	Date _____
Person Served _____	Time _____	Date _____
Non Est (Reason) _____		
Fee \$ _____	Sheriff _____	

NOTE:

1. This summons is effective for service only if served within 60 days after the date it is issued
2. Proof of service shall set out the name of the person served, date and the particular place and manner of service. If service is not made, please state the reasons.
3. Return of served or unserved process shall be made promptly and in accordance with Rule 2-126.
4. If this summons is served by private process, Process server shall file a seperate affidavit as required by Rule 2-126 (a).

32

FILED
IN THE
AUG 8 1990
CIRCUIT COURT FOR
BALTIMORE COUNTY

JOSEPH ROLNIK
and
DEBORAH ROLNIK

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY
and
SHEPPARD & ENOCH PRATT
HOSPITAL
and
I.E. SHAFFER & COMPANY
and
HUDSON COUNTY CARPENTERS,
WELFARE, PENSION, VACATION AND
ANNUITY FUNDS

Defendants

FOR

BALTIMORE CITY

87313071/CL73531

* * * * *
PLAINTIFFS' RESPONSE TO DEFENDANT, UNION LABOR LIFE INSURANCE
COMPANY'S MOTION FOR SUMMARY JUDGMENT

Now comes the plaintiffs by their counsel, Mark T. Mixer and Smith, Somerville & Case and state for their response to the motion for summary judgment filed on behalf of Union Labor Life Insurance Company as follows:

1. The plaintiffs' have now filed a second amended complaint which renders the defendant's motion for summary judgment moot as plaintiffs have now asserted causes of action under the ERISA statute.
2. Plaintiffs incorporate by reference the arguments asserted by Sheppard & Enoch Pratt Hospital in its opposition to Union's motion for summary judgment.

Mark T. Mixer
Mark T. Mixer

Smith, Somerville & Case
Smith, Somerville & Case
100 Light Street, 4th Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 1989, a copy of the foregoing plaintiffs' response to defendant, Union Labor Life Insurance Company's motion for summary judgment was mailed to Thomas M. Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, P.O. Box 6705, Towson, Maryland 21285; Kenneth L. Thompson, Esquire, Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201 and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge, 10 Light Street, Baltimore, Maryland 21202.

Mark T. Mixer
Mark T. Mixer

FILED

IN THE

AUG 3 1989

**CIRCUIT COURT FOR
BALTIMORE CITY**

JOSEPH ROLNIK and
DEBORAH ROLNIK

Plaintiff

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAFFER

Defendants

FOR

BALTIMORE CITY

87313071/CL73531

* * * * *

PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S
MOTION TO COMPEL PLAINTIFF TO UNDERGO A MENTAL EXAMINATION

Now comes the plaintiffs, Joseph Rolnik and Deborah Rolnik by their counsel, Mark T. Mixter and Smith, Somerville & Case and files this memorandum of law opposing Union Labor Life Insurance Company's motion seeking to compel Deborah Rolnik to undergo a mental examination. The plaintiffs vehemently oppose the defendant's motion and state in support of their position as follows:

I. FACTS

1. This is an action on an insurance policy issued by Union Labor Life Insurance Company to the Hudson County Carpenters Union in Hudson County, New Jersey. Joseph Rolnik was a longtime member of that union before his retirement. Deborah Rolnik is Joseph Rolnik's daughter. Under the terms of the policy, Deborah Rolnik is a "beneficiary" and thus, entitled to the benefits of the policy. Ms. Rolnik was hospitalized for two and a half years at Sheppard Pratt Hospital beginning in July of 1984 and culminating in March of

1987. The defendant and movant, Union Labor Life Insurance Company paid a portion of the expenses incurred by Ms. Rolnik during her hospitalization but left Ms. Rolnik and her father "holding the bag" to the tune of approximately \$100,000.00 for the expenses incurred for approximately the last year of Ms. Rolnik's hospitalization. The decision by Union not to pay the entirety of Ms. Rolnik's expenses came after months of delay by Union while they considered the issue of coverage. During that delay, the subject bills mounted. Thereafter, this suit was instituted by the Rolniks to recover the benefits to which they are entitled.

2. Ms. Rolnik has not placed her mental condition at issue in this case. Rather, Union contends that Ms. Rolnik's condition was such that after six months of treatment by physicians at Sheppard Pratt, further treatment at that facility was not medically necessary. On that basis Union now seeks to have Ms. Rolnik examined by a local psychiatrist.

3. This matter is set for trial on September 11, 1989. Union, virtually on the eve of trial, has undertaken various dilatory tactics (including this attempt to have Ms. Rolnik examined) in an effort to thwart plaintiffs' efforts to move this case forward as scheduled. For example, on the eve of the settlement conference before Judge Sklar conducted on July 11, 1989, Union filed a motion for summary judgment stating that this court did not have jurisdiction over the case. Specifically, Union's motion for summary judgment

contends that the claims asserted by the Rolniks are only cognizable under the federal ERISA statute. That motion was filed fourteen months after Union Labor Life Insurance Company answered the original complaint.

4. Similarly, for the first time, Union now wishes to depose Deborah Rolnik's treating physicians and has also sought the records arising out of treatment rendered Ms. Rolnik prior to her hospitalization at Sheppard Pratt. No attempt was made to do either of those things until the last few weeks.

5. Lastly, Union, by way of Brian Smith's letter of July 28, 1989, unilaterally cancelled the deposition of Ettie Barsky which was scheduled for August 1, 1989 and had been so scheduled for several months. (A copy of the letter is attached hereto as exhibit "A"). Ms. Barsky is the Union employee who made the decision to cut off benefits to the Rolniks. The cancellation occurred in the face of the impending trial date and Brian Smith's awareness of plaintiffs' counsel's vacation and trial schedule which all but precludes the rescheduling of Ms. Barsky's deposition. Union's desire to have Ms. Rolnik examined by Dr. Spodak is nothing more than yet another dilatory tactic by Union.

6. Union's desire to have Ms. Rolnik examined by Dr. Spodak is also an attempt to have "two bites" at the apple. In late 1986 Union forwarded Ms. Rolnik's records from Sheppard Pratt Hospital to Dr. Anthony M. D'Agostino for his review and

comment. (A copy of Dr. D'Agostino's report is attached hereto as exhibit "B"). Dr. D'Agostino concluded that Ms. Rolnik's hospitalization at Sheppard Pratt Hospital was medically necessary for only the first six months of Ms. Rolnik's stay there. Dr. D'Agostino's deposition was recently conducted by plaintiffs' counsel. Apparently, Union's lawyers are not satisfied with Dr. D'Agostino's testimony. Accordingly, they now seek to have a local psychiatrist, Dr. Spodak examine Ms. Rolnik using "standard psychiatric methods". Union's motion fails to provide any detail as to the nature of the "methods" which Dr. Spodak proposes to utilize.

7. Most importantly, Union now seeks to elicit an opinion from Dr. Spodak as to the propriety of treatment by Sheppard Pratt and the condition of Deborah Rolnik over five years ago based on an examination to be conducted now. Obviously, Dr. Spodak never examined Ms. Rolnik during her stay at Sheppard Pratt. To suggest that any "expert" could render such an opinion is preposterous.

8. Union claims that the examination is necessary because purportedly, Ms. Rolnik's mental condition is material to Union's defense to this action as well as to Ms. Rolnik's claim for damages arising after her discharge from Sheppard Pratt. Nonsense! Union makes absolutely no effort to explain why Ms. Rolnik's mental condition is material to her claim for damages. To the contrary, Ms. Rolnik's claim for damages is simply a claim for benefits, attorneys' fees and other fixed

sums in accordance with the terms of the insurance policy issued by Union and the applicable statutes. It is a contract action. In short, Union's claim that Ms. Rolnik's case necessarily involves her mental condition is completely misleading. The crux of the case is whether there is coverage under the policy.

9. Union also contends that it will be prejudiced if only the plaintiffs' experts are allowed to testify. What about Dr. D'Agostino? He is capable of testifying. He did so at deposition. Why can't he testify at trial? Unfortunately, Union's motion fails to explain this glaring omission in its argument.

10. Union also contends that they have made "reasonable attempts" to schedule the examination. To the contrary, the only attempt Union made to schedule the examination was the letter of Brian Smith dated July 12, 1989 (attached hereto as exhibit "C") which announced the date for the examination (August 3, 1989) without any other advance notice whatsoever, not even a telephone call. The letter is without any description at all as to the nature, length or type of examination to be conducted. Moreover, Deborah Rolnik lives on the eastern shore of Maryland and a trip to Baltimore would be inconvenient without sufficient advance notice. Union made absolutely no attempt to resolve this matter in a reasonable fashion. Rather, Union acted unreasonably and without any regard for the plaintiff when it unilaterally scheduled an

examination to which it is not entitled and which may pose some risk to Ms. Rolnik's psychiatric well-being. Union obviously gave those issues little or no thought when it elicited the support of Dr. Spodak and scheduled Ms. Rolnik for an examination without any consultation whatsoever with Ms. Rolnik's counsel.

II. THE LAW

11. Rule 2-423 places the onus on Union to show that Deborah Rolnik's mental condition is "in controversy" and that there is "good cause" to order the desired examination. The court has broad discretion to place limiting conditions on the examination. The court can limit the time, place, method of examination, the expense of the examination, require the preparation of a report and the determine identity of the examiner. Rule 2-432 is closely akin to Federal Rule 35 in that the same two requirements are embodied in both rules. Since there is little Maryland law commenting on Rule 2-423, the federal law interpreting Rule 35 is particularly persuasive.

12. First of all, Union's motion fails to adequately demonstrate why Deborah Rolnik's mental condition is "in controversy". Union does not even go so far as to provide the court with a reference to the insurance policy which would demonstrate why Ms. Rolnik's mental condition is germane to the issues posed by the defense in this case.

13. In those cases where a defendant seeks to place a

plaintiff's mental condition at issue, a higher burden of proof is required in order for the court to conclude that the matter is "in controversy" and that there is "good cause" to order the exam. Cody v. Marriott Corp., 103 F.R.D. 421 (D. Mass. 1984). In the Cody case, the plaintiff alleged employment discrimination and also asserted a claim for damages for physical and emotional distress. The court determined that it was really the defendant who sought to place the plaintiff's mental condition in controversy. The court concluded that the mere allegation of a claim for damages for physical and emotional distress was not enough to show that the plaintiff's mental condition was in controversy under the rule. Id. at 422. In this case, Ms. Rolnik has not even asserted a claim for emotional distress.

14. A seminal decision in this area is Schlagenhauf v. Holder, 379 U.S. 104 (1964). In Schlagenhauf, Justice Goldberg vacated the judgment of the lower court and remanded the case for a reconsideration of the propriety of having ordered the plaintiff to submit to a mental examination. In pertinent part, the Court stated that there are significant limitations placed on the application of Federal Rule 35 which the court explained:

...are not met by mere conclusory allegations of the pleadings - nor by mere relevance to the case - but require an affirmative showing by the movant that each condition as to which the examination is sought is really and genuinely in controversy and that good cause exists for ordering each particular examination.

Obviously, what may be good cause for one type of examination may not be so for another. The ability of the movant to obtain the desired information by other means is also relevant. Id. at 118.

The Court also stated that since Schlagenhauf had not placed his mental or physical condition at issue, the parties seeking the examination had the burden of making an affirmative showing that Schlagenhauf's mental or physical condition was in controversy and that there was good cause for ordering the exam. In this instance, Union has failed to meet this burden.

15. Lastly, this court can consider the actual physical and mental conditions sought to be examined as a factor in determining whether to order the desired examination. Raymond v. Raymond, 252 A.2d 345 (R.I. 1969). If, for example, the court concluded that such an examination would work an undue hardship or potential harm to the party to be examined, the court can deny the request. This is the precise situation we are confronted with here. Therefore, a denial of Union's motion is mandated.

WHEREFORE, it is respectfully requested that the defendant, Union Labor Life Insurance Company's motion to compel plaintiff to undergo a mental examination be denied.



Mark T. Mixer

Smith, Somerville & Case
Smith, Somerville & Case
100 Light Street, Fourth Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August,
1989, a copy of the foregoing request for hearing was mailed
to:

Thomas M. Trezise, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Towson, Maryland 21204

Kirstine A. Crosswhite, Esquire
Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202

Brian S. Smith, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Mark T. Mixer
Mark T. Mixer

EXHIBIT "A"

PIPER & MARBURY

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

301-539-2530

TELECOPIER 301-539-0489

CABLE 'PIPERMAR BAL'

TELEX 908054

WRITER'S DIRECT NUMBER
576-1884

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

July 28, 1989

HAND DELIVERED

Kristine A. Crosswhite, Esquire
Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202

Mark Mixter, Esquire
Smith, Somerville and Case
100 Light Street
Baltimore, Maryland 21202

Tom Trezise, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Towson, Maryland 21204

Re: Rolnik, et al. v. Union Labor Life, et al.

Dear Counsel,

I must report that the continued deposition of Ms. Barsky will not take place on August 1st. While I would have preferred to get this over with and to accommodate Mr. Mixter's vacation schedule, it appears that Ms. Barsky's condition is more unstable than previously thought. I understand that there may be some objection to this so I have prepared the enclosed motion. If, however, you would just like to reschedule the deposition, please call me.

Sincerely,



Brian S. Smith

EXHIBIT B

ANTHONY M. D'AGOSTINO, M.D. S.C.
990 GRAND CANYON PARKWAY
HOFFMAN ESTATES, ILLINOIS 60194-1797
TELEPHONE (312) 884-9087

February 19, 1987

Ettie Barsky
Union Labor Life Insurance Company
111 Massachusetts Ave. N.W.
Washington, D.C. 20001

Re: Review of the Case of Debra Rolnik

Dear Ms. Barsky:

I have reviewed the rather extensive record of Ms. Rolnik who was admitted on July 17, 1984 and, to my knowledge, remains in-hospital. The review is based on the concept of medical necessity which involves two basic concepts; 1.) That the patient's condition is such that a hospital level of care is required, and 2.) That the intervention of acute hospital care is likely to benefit from the type of care given.

Based on the concept of medical necessity, there are a number of problems in the treatment of Ms. Rolnik. According to the diagnostic summary, Ms. Rolnik has a history of angry outbursts, truancy, and learning problems since the age of 4. At the age of 11 she exhibited suicidal behavior and by age 16 she had engaged in multiple drug abuse with amphetamines, LSD, codeine and alcohol. Because her behavior was uncontrollable, she was institutionalized at a residential treatment center in Pennsylvania from 1980 to 1983. While I have no access to the records of that three year treatment, the records indicate that there was a "gradual improvement in her symptoms." Nevertheless, although she's older now, there continues to be uncontrollable behavior at home with verbal fights, unwillingness to cooperate, and the patient lost her driver's license while driving under the influence of alcohol. The patient has also never been employable up to the time of hospitalization where she is twenty years of age. There was at least one other hospitalization for an acute reactive psychosis which cleared without appreciable psychopharmacologic intervention. She was treated with Navane but became allergic to that drug. According to the records she was actively using drugs. At the time of the admission in question she experienced a rage reaction and threatened to burn down the mental health center she was attending. It therefore appears that the admission was justifiable.

Referring to the diagnostic assessment, we note that the Axis I diagnoses are: 1.) Attention deficit disorder, residual type and 2.) Mixed substance dependence. The diagnosis for which the patient is receiving this treatment however, and which the diagnostic assessment states is her primary problem is borderline personality disorder. I would agree that the borderline disorder must be considered a primary diagnosis here although there is ample evidence to suggest that her drug dependence probably plays a significant part in her inability to function.

Viewed in a longitudinal sense, it is my opinion that long-term inpatient treatment is not in the patient's best interest and not likely to result in improvement. To some extent this is taken from the initial diagnostic summary in which the prognosis is stated to be "poor, because of probable organic components, and because of the difficulty in treating personality disorders." It is therefore the opinion of the evaluating physician that the response to treatment is very likely to be poor. The patient indeed does not represent the type of disorder in which a long-term treatment is likely to be beneficial. In this case I would agree with the initial assessment of the evaluating physician. The initial length of stay is estimated to be about six months. If we presume that the major indication for long-term inpatient is a patient likely to benefit from such a treatment, we must conclude that Ms. Rolnik is unlikely to benefit and therefore the second medical necessity assumption is not met. There appears to be ample evidence for assuming that the prognosis will be poor. For example, Ms. Rolnik has already had three years of intensive inpatient treatment ending only nine or ten months before, and it is clear that that treatment did not result in an appreciable increase in her ability to function in society.

Despite ample history and ample attempts at long-term residential treatment, and despite evidence that after six months of inpatient treatment, gains made are only superficial in nature, the hospital elects to continue treatment for a relatively indefinite period. The treatment of borderline patients is no doubt difficult but, when in a long-term inpatient program, there is a tendency for such patients to regress in the supportive environment of a hospital milieu. This is exactly what we see in Ms. Rolnik's case and careful reading of the records indicates only superficial improvement. By and large however she is unresponsive, uncooperative with treatment, does not comply with many of the rules and expectations of the hospital environment, shows little investment in the treatment process, and even after two and a half years of treatment continues with a high level of impulsivity. I spoke with Dr. Seltzer on January 16th, and although he describes "improvement" all along the two and a half years, he did also report that within a few days of our conversation the patient still required restraints. The records that I had available only go to the fall of 1986, but it would still seem that the patient's prognosis, even in January of 1987, remains highly guarded. Therefore, one must conclude that despite two and a half years of inpatient treatment coupled with three years of inpatient treatment preceding this hospitalization, there is little evidence that the patient is invested in her treatment and little evidence that she is likely to benefit from further treatment. Because borderlines have a tendency to regress in such an environment, unless there is a high emphasis on maintaining a strong reality orientation - which means basically keeping the patient as functional as possible throughout her treatment - the hospital is willing to put up with fairly outrageous behavior as long as she is willing to exhibit such behavior.

Review of the record indicates that while there is a good deal of talk of suicidal behavior, and threats to use drugs, the initial and continuing evaluations do not say anything about major depression. Behavior is attributed largely to substance abuse and the residuals of attention deficit disorder. These diagnoses, coupled with the borderline personality disorder,

is likely to give rise to the behaviors reported including rage reactions as well as suicidal threats. I find myself in agreement with the evaluation on these points.

While I may have no access to previous records and there is no psychological testing, the record does indicate that the patient has certain "probable organic components" and there is reference to borderline intellectual functioning. Once again, the history of considerable previous treatment coupled with poor response, in the absence of a major psychiatric disorder, indicates that the condition is likely to be impervious to treatment. From my reading of the record it appears that the patient is kept in-hospital because she is unable to achieve the gains hoped for. Because she continues to function on a regressive level, she is not appropriate for discharge. Again, the history of borderline intellectual functioning, learning disabilities, a lifetime of impulsive and acting out behavior, indicate that the condition is in all likelihood rather stable. Borderline personality disorders, even of normal or higher than normal functioning hospitalization should be used in the short-term or acute circumstances, but every effort should be made to keep the patient out of the hospital setting and as functional as possible in a day treatment setting or structured community living setting. If the behavior is indeed chronic and stable and, after many years of treatment, it is clear that the condition will not respond to acute inpatient treatment, then it would seem more appropriate that the patient be considered for a long-term (state?) institution for patients with chronic disturbances who can't function in a halfway house.

Again, I must repeat that I do not have access to whatever records were available prior to this hospitalization. There is one mention of the use of Navane but little other reference to psychopharmacologic interventions in the past. In this hospitalization we do see that the patient is in-hospital about one year before any regular medication is prescribed. There were references made to the idea that Tegretol might have been useful, but the patient apparently refused to take that medication and it was therefore never tried. On the other hand, the patient was tried on Ritalin combined with a placebo in September of 1984 and she apparently was able to take her medication although it did not seem to benefit her. From July 1984 until September 1984 the patient was only on PRN schedules of Haldol and later Thorazine. In May of 1985 she was placed on a regular order of Thorazine and in July of 1985 there was a trial on Lithium. There is no other reference to any regular medication beyond PRN's until May of 1986 at which time Tofranil was begun. Again, while there is constant reference to small improvements throughout the hospital stay, it is clear that the patient is minimally cooperative and appears to have little investment in her treatment. Despite constant talk of suicide, there is little mention of depression per se. This is probably an accurate assessment for there is no attempt at antidepressants until May of 1986. Throughout much of the stay medication is used largely on a PRN basis and this for control of agitation or impulsive behavior. In this patient's case I believe this use of medication is appropriate since her behavior is clearly contributing significantly to her dysfunction. While not psychotic, I believe neuroleptic medication is justifiable based on the serious nature of her dysfunction and the need to control

this very maladaptive acting out behavior. Nevertheless, the use of psychopharmacology to control this behavior is very limited. She did apparently experience allergies to Navane and Haldol but there are a variety of other neuroleptic medications which may have been helpful. While an attempt was made in September of 1984 to use Ritalin to control the behavior which was presumed to be an outgrowth of the attention deficit disorder, the dosages were very limited and there appeared to be no difference between the placebo and the active medication. Higher doses of Ritalin were not attempted. The use of MAO inhibitors such as Nardil and or Parnate were also never tried. I must emphasize that this is not necessarily a criticism of the use of psychopharmacology since previous experience may indicate that all drugs have limited to no benefit in this patient.

In conclusion I would say that this indeed is a difficult patient whose initial admission was justified. On the other hand, because of the admittedly poor prognosis, history of long-term treatment with little benefit in carry over to noninstitutional life, I believe that keeping the patient in as long as six months was not beneficial and possibly regressive. I do not believe that long-term inpatient hospitalization is justifiable based on the possibility that the patient might indeed commit suicide. Long-term inpatient treatment should be based on the presumption or high likelihood that the intervention will benefit the patient. If the hospitalization merely contains the patient or keeps her from being dangerous to the community, such containment can be obtained via use of a chronic ward of a state institution. In such settings the level of individual treatment is far less intense but the end result is basically the same. Since there was no evidence that the patient was really invested in her treatment per se, and that the treatment program was unwilling to demand a higher level of cooperation with the treatment process, the continued extensions of inpatient care appear to be based on the absence of improvement rather than evidence that the patient was benefiting from the treatment and, therefore, what was being done was essentially correct.

It is sometimes very difficult for an institution, once becoming invested in a patient, to admit that the treatment is not being helpful and is unlikely to be helpful. In their desire to help the patient they will often see improvement in the absence of objective evidence. Improvement implies that what one is doing is perhaps correct. Continuation of treatment beyond the initial estimates was unjustifiable. In my opinion the first six months could be considered justified by virtue of needing the time for adequate assessment, especially since this particular hospital had no experience with this particular patient. Extension beyond the first six months was allowed in the absence of evidence that this particular form of intervention was going to be beneficial and probably based on the desire to help the patient no matter what. Nevertheless, medical necessity for continued inpatient treatment beyond six months was not demonstrated in the record I examined.

Very truly yours,

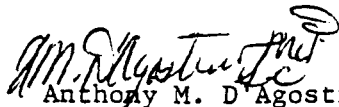

Anthony M. D'Agostino, M.D.

EXHIBIT "C"

PIPER & MARBURY

1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

301-539-2530

TELECOPIER 301-539-0489

CABLE 'PIPERMAR BAL'

TELEX 908054

WRITER'S DIRECT NUMBER

576-1884

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036
202-861-3900

July 12, 1989

Mark T. Mixter, Esquire
Smith, Somerville & Case
100 Light Street, 6th Floor
Baltimore, Maryland 21202

Re: Rolnik et al. v. Union Labor Life, et al.

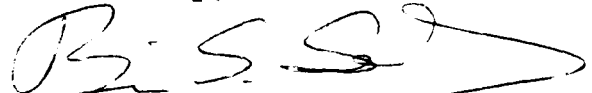
Dear Mark;

Enclosed please find a medical authorization form for Ms. Rolnik's Devereux records. Please have her sign it and return it to me. Also, if you have the particulars, ie. address of Devereux, exact dates of stay, doctors names, etc., please include them on the form.

In addition, we would like to schedule an independent mental examination of Ms. Rolnik for August. We have arranged an appointment with Dr. Michael Spodak for August 3rd at 9:00 a.m. Please get back to me if Ms. Rolnik will be available or with an alternative date.

Finally, I would like to get some available dates from you for the deposition of Dr. Seltzer. We would like this to take place in early August as well.

Sincerely,


Brian S. Smith

JOSEPH ROLNIK
and
DEBORAH ROLNIK

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY
and
SHEPPARD & ENOCH PRATT
HOSPITAL
and
I.E. SHAFFER & COMPANY
and
HUDSON COUNTY CARPENTERS,
WELFARE, PENSION, VACATION AND
ANNUITY FUNDS

Defendants

* * * * *

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

REQUEST FOR HEARING

The plaintiffs respectfully request that a hearing be scheduled on the defendant, Union Labor Life Insurance Company's motion for summary judgment at the earliest available date.

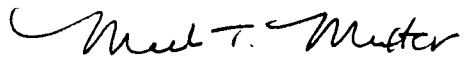
Mark T. Mixer
Mark T. Mixer

Smith, Somerville & Case
Smith, Somerville & Case
100 Light Street, 4th Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 1989, a copy of the foregoing request for a hearing was mailed to Thomas M. Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, P.O. Box 6705, Towson, Maryland 21285;

Kenneth L. Thompson, Esquire, Piper & Marbury, 1100 Charles
Center South, 36 South Charles Street, Baltimore, Maryland
21201 and to Kristine A. Crosswhite, Esquire, Miles & Stock-
bridge, 10 Light Street, Baltimore, Maryland 21202.



Mark T. Mixter

JOSEPH ROLNIK and
DEBORAH ROLNIK

Plaintiffs

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAFFER

Defendants

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

* * * * *

ORDER

It is hereby ORDERED this day of , 1989
that the defendant, Union Labor Life Insurance Company's
motion to compel plaintiff to undergo a mental examination is
hereby DENIED.

J U D G E

55

JOSEPH ROLNIK
15919 Forsythia Circle
Delray Beach, Florida 33445

and

DEBORAH ROLNIK
Woodcroft
St. Inigoes, Maryland 20684

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY
111 Massachusetts Ave., N.W.
Washington, D.C. 20001

and

SHEPPARD & ENOCH PRATT
HOSPITAL
6501 N. Charles Street
Baltimore, Maryland 21204

and

I.E. SHAFFER & COMPANY
840 Bear Tavern Road
West Trenton, New Jersey 08628

and

HUDSON COUNTY CARPENTERS,
WELFARE, PENSION, VACATION AND
ANNUITY FUNDS
c/o I.E. SHAFFER
840 Bear Tavern Road
West Trenton, New Jersey 08628

SERVE BY REGISTERED MAIL
Glenn Shaffer, Administrator
840 Bear Tavern Road
West Trenton, New Jersey 08628

Defendants

* * * * *

SECOND AMENDED COMPLAINT

Plaintiffs, Joseph Rolnik and Deborah Rolnik, by

IN THE
FILED
1989
CIRCUIT COURT
CIRCUIT COURT FOR
BALTIMORE CITY

FOR

BALTIMORE CITY

87313071/CL73531

48

their attorneys, Mark T. Mixter and Smith, Somerville & Case, file this second amended complaint against the Defendants, Union Labor Life Insurance Company (hereinafter "Union"), Sheppard & Enoch Pratt Hospital (hereinafter the "Hospital") and I.E. Shaffer & Company (hereinafter "Shaffer") and Hudson County Welfare, Pension, Vacation and Annuity Funds (hereinafter the "plan") and state as follows:

INTRODUCTION

1. That on or about July 17, 1984, Deborah Rolnik was admitted to the Hospital's adult in-patient program.
2. That Deborah Rolnik's admission to the Hospital was based upon her doctor's recommendation.
3. The Joseph Rolnik is the father of Deborah Rolnik.
4. That Deborah Rolnik's in-patient treatment was covered by Joseph Rolnik's policy with Union under (the "Plan").
5. That Union's policy limit was \$100,000.00.
6. That Union approved of Deborah Rolnik's hospitalization through its administrative agent, Shaffer.
7. That six months after Deborah Rolnik was admitted to the Hospital, Union, through Shaffer, contacted the Hospital directly to inform them that the applicable policy limit had been increased to \$1,000,000.00.
8. The Kathryn Gallagher, Deborah Rolnik's social worker, contacted Shaffer to confirm the increase in the

policy limit and was told that Deborah's care was included in that increase.

9. That in approximately June of 1986, approximately two years after Deborah Rolnik began treatment at the Hospital, Union stopped paying Deborah's medical bills.

10. That in August of 1986, Union notified the Hospital that they were conducting a review of Deborah Rolnik's treatment and progress.

11. That from August, 1986 until November 1986, the Hospital made a series of telephone calls to Shaffer and Union, inquiring as to the status of the review.

12. That on or about November 20, 1986, Ms. Ettie Barsky, an agent, employee and/or servant of Union, phoned the Hospital and informed them that Union would not pay any of Deborah Rolnik's outstanding bills, nor would they pay any future bills she might incur. The Hospital requested confirmation in writing.

13. That Deborah Rolnik was released from the Hospital on March 17, 1987 and placed in an alternative facility because her family could not afford to pay her on-going medical expenses at the hospital.

14. That on or about April 19, 1987, Ettie Barsky sent a letter to the Hospital, detailing the results of the review of Deborah Rolnik's case, eight months after the review began and eleven months after Union stopped paying Deborah Rolnik's medical bills.

15. That Union has refused to pay any of Deborah Rolnik's medical expenses incurred since her departure from the hospital.

16. In accordance with 29 U.S.C.A. 1132, State courts of competent jurisdiction and District Courts of the United States have concurrent jurisdiction over actions where a beneficiary brings an action to recover benefits due him or her under the terms of a plan or to enforce rights under terms of a plan and for attorneys fees and damages for emotional distress. The plaintiffs here are suing to recover benefits that they should have received under the terms of a plan and therefore, this court is a court of competent jurisdiction for this case.

COUNT I

(Misrepresentation)

17. That the Plaintiffs, Joseph Rolnik and Deborah Rolnik, incorporate by reference paragraphs 1 through 16, inclusive, as if each and every paragraph had been set forth completely herein.

18. That the Defendants owed a duty to the Plaintiffs to make proper and accurate representations regarding the scope of insurance provided by the insurance policy issued by the Defendant, Union.

19. That the Defendants breached their duty to the Plaintiffs by failing to advise properly the Plaintiffs of the scope of the insurance provided by the insurance policy.

20. That the Plaintiffs reasonably relied upon the representations provided to them concerning the scope of the insurance policy by the Defendants.

21. That at the time the Defendants made the misrepresentations concerning the scope of the policy issued to the Plaintiff, the Defendants intended that the Plaintiffs would rely upon the misrepresentations and were reasonably aware that the Plaintiffs would act in reliance upon those representations in pursuing continued treatment for Deborah Rolnik at the Hospital.

22. That the Plaintiffs did in fact rely upon the representations made by the Defendants and, as a result of that reasonable reliance, sustained loss and damage.

23. That as a direct and proximate result of the Defendants' misrepresentations, the Plaintiffs were caused to sustain loss as a consequence of the continued treatment provided to Deborah Rolnik by the Hospital.

WHEREFORE, the Plaintiffs pray that compensatory damages in the amount of \$500,000.00 and punitive damages in the amount of \$1,000,000.00 be entered in their favor.

COUNT II

(Fraud)

24. That the Plaintiffs incorporate by reference those facts alleged in paragraphs 1 through 23, inclusive, as if each and every one of those paragraphs was set forth herein.

25. That the Defendants misrepresented to the Plaintiffs the scope of the insurance provided by the insurance policy issued to the Plaintiffs.

26. That at the time those misrepresentations were made, the Defendants knew of their falsity and/or made such misrepresentations and/or intended to create a false impression of the actual scope of insurance provided to the Plaintiffs through the insurance policy.

27. That the Defendants made the misrepresentations to the Plaintiffs at a time when it knew the Plaintiffs would rely upon said misrepresentations.

28. That the Plaintiffs in fact did justifiably rely upon the Defendants' misrepresentations by continuing treatment for Deborah Rolnik at the Hospital.

29. That the false and misleading statements, omissions and misrepresentations made by the Defendants concerning the scope of the insurance provided by the insurance policy constitute outrageous, malicious, gross and wanton conduct on the part of the Defendants and were made with an intent to harm and injure the Plaintiffs.

30. That as a direct and proximate result of the Plaintiffs' reliance on said misrepresentations by the Defendants, the Plaintiffs have sustained severe damage and injury, including but not limited to the cost of hospitalization for Deborah Rolnik at the Hospital.

WHEREFORE, the Plaintiffs demand judgment against

the Defendants in the amount of \$500,000.00 compensatory damages and \$2,000,000.00 in punitive damages.

COUNT III

(Breach of Contract)

31. That the Plaintiffs incorporate by reference paragraphs 1 through 30, inclusive, herein as if each and every paragraph was reasserted herein.

32. That the Defendant, Union, entered into a contractual agreement with the Plaintiff Joseph Rolnik, promising to pay to Joseph Rolnik or any health care provider all bills incurred for medical expenses for in patient treatment.

33. That the Defendant, Union, has breached its contract with the Plaintiff, Joseph Rolnik, by discontinuing payments to the Hospital to the continuing detriment of the Plaintiffs, Joseph Rolnik and Deborah Rolnik.

34. That as a consequence of the breach of contract, the Plaintiffs, Joseph Rolnik and Deborah Rolnik, have sustained damages.

WHEREFORE, it is respectfully requested that judgment be entered in favor of the Plaintiffs and against the Defendant, Union, in the amount of \$500,000.00.

COUNT IV

(Recovery of Benefits Due Under Plan Terms)

35. That the Plaintiffs incorporate by reference those facts alleged in paragraphs 1 through 34, inclusive, as

if each and every one of those paragraphs were set forth herein.

36. That the Plaintiffs have not received benefits to which they are entitled under the plan because the Defendants discontinued payments to the Hospital for Deborah Rolnik's hospitalization and refused to pay for medical expenses incurred by Deborah Rolnik subsequent to her discharge from the hospital.

WHEREFORE, it is respectfully requested that judgment be entered in favor of the Plaintiffs and against the Defendants in the amount of \$500,000.00 compensatory damages and \$2,000,000.00 punitive damages plus attorneys' fees.

COUNT V

(Enforcement of Rights Under Terms of the Plan)

37. That the Plaintiffs incorporate by reference paragraphs 1 through 36, inclusive, as if each and every paragraph was reasserted herein.

38. That the Plaintiffs rights were not recognized because the Plaintiffs never received benefits to which they were entitled under the plan because the defendants discontinued payments to the hospital and refused to pay for the medical expenses incurred by Deborah Rolnik subsequent to her discharge from the hospital.

WHEREFORE, it is respectfully requested that judgment be entered in favor of the Plaintiffs and against the Defendants in the amount of \$500,000.00 compensatory damages

and \$2,000,000.00 punitive damages plus attorneys' fees.

COUNT VI

(Declaratory Judgment)

39. That the Plaintiffs incorporate by reference paragraphs 1 through 38, inclusive, as if each and every paragraph was reasserted herein.

40. That this claim for a declaratory judgment is brought pursuant to 2-401, et seq. of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

41. That because an actual and justifiable controversy now exists between Joseph Rolnik, Deborah Rolnik, Union, the Hospital Shaffer and the Plan with regard to the proper interpretation of the insurance policy issued by Union, Joseph Rolnik and Deborah Rolnik request that a decree of a conclusive character be provided, and all rights and legal relations of the parties hereto be judicially and finally determined.

WHEREFORE, Joseph Rolnik and Deborah Rolnik request that the Court declare the following:

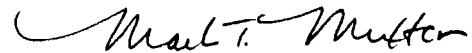
1. That the Plaintiff, Deborah Rolnik, was an insured under the policy of her father, Joseph Rolnik.
2. That all treatment received by the Plaintiff, Deborah Rolnik, while hospitalized at the Hospital and thereafter be determined to have been covered under that policy.
3. That the Defendants breached their contract with the Plaintiffs under the plan by discontinuing payments to the

Hospital, to the continuing detriment of Plaintiffs, Joseph Rolnik and Deborah Rolnik.


4. That Plaintiffs, be reimbursed by the defendants for all monies due the Hospital and others for treatment rendered Deborah Rolnik.

5. That Plaintiffs, Joseph Rolnik and Deborah Rolnik, be reimbursed by Union and/or Shaffer for any and all costs attendant to filing and pursuing the instant complaint for declaratory judgment, including but not limited to, and as permitted under 29 U.S.C. Section 1132(g), legal fees incurred therein.

6. That this Court decree such other and further relief as it deems appropriate in the interest of fairness and justice.



Mark T. Mixer



Smith, Somerville & Case
100 Light Street, 4th Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 1989, a copy of the foregoing second amended complaint was mailed to Thomas M. Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, P.O. Box 6705, Towson, Maryland 21285; Kenneth L. Thompson, Esquire, Piper & Marbury, 1100 Charles

Center South, 36 South Charles Street, Baltimore, Maryland
21201 and to Kristine A. Crosswhite, Esquire, Miles & Stock-
bridge, 10 Light Street, Baltimore, Maryland 21202.

Mark T. Mixer

Mark T. Mixer

JOSEPH ROLNIK
15919 Forsythia Circle
Delray Beach, Florida 33445

and

DEBORAH ROLNIK
Woodcroft
St. Inigoes, Maryland 20684

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY
111 Massachusetts Ave., N.W.
Washington, D.C. 20001

and

SHEPPARD & ENOCH PRATT
HOSPITAL
6501 N. Charles Street
Baltimore, Maryland 21204

and

I.E. SHAFFER & COMPANY
840 Bear Tavern Road
West Trenton, New Jersey 08628

and

HUDSON COUNTY CARPENTERS,
WELFARE, PENSION, VACATION AND
ANNUITY FUNDS
c/o I.E. SHAFFER
840 Bear Tavern Road
West Trenton, New Jersey 08628

SERVE BY REGISTERED MAIL
Glenn Shaffer, Administrator
840 Bear Tavern Road
West Trenton, New Jersey 08628

Defendants

* * * * *

REQUEST FOR JURY TRIAL

The plaintiffs respectfully request that the second

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

amended complaint be heard by a jury.

Mark T. Mixer

Mark T. Mixer

Smith, Somerville & Case
Smith, Somerville & Case
100 Light Street, 4th Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of August, 1989, a copy of the foregoing request for jury trial was mailed to Thomas M. Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, P.O. Box 6705, Towson, Maryland 21285; Kenneth L. Thompson, Esquire, Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201 and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge, 10 Light Street, Baltimore, Maryland 21202.

Mark T. Mixer

Mark T. Mixer

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ac

JOSEPH ROLNIK, et al.,
Plaintiffs,
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,
Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
*
* Case No. 87313071/CL73531
*

FILED
JUL 28 1989
CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

**DEFENDANT I.E. SHAFFER'S
MOTION FOR SUMMARY JUDGMENT**

Defendant, I.E. Shaffer, Inc., by its undersigned counsel, moves this Court to enter summary judgment in its favor for all claims in the above-captioned matter pursuant to Maryland Rule 2-501. The basis for Defendant's Motion is that Plaintiff's causes of action are preempted by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001 et seq. 1985.

The facts and legal grounds and authorities in support of Plaintiff's Motion are set forth in Defendant Union Labor Life Insurance Company's Motion and Memorandum of Law that previously were filed. Defendant I.E. Shaffer adopts the Motion and Memorandum of Law previously submitted by Defendant Union Labor Life Insurance Company.

Kristine A. Crosswhite

Marian C. Hwang
MILES & STOCKBRIDGE
10 Light Street - Suite 1200
Baltimore, Maryland 21202
(301) 727-6464

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 1989, that a copy of Defendant I.E. Shaffer's Motion for Summary Judgment was mailed, first class mail, postage prepaid to the following:

Mark T. Mixer, Esquire
Smith, Somerville & Case
100 Light Street - 6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201



Marian C. Hwang

ROLNIK.PLD

53
A.C.

FILED

JUL 31 1989

CIRCUIT COURT FOR BALTIMORE CITY

JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

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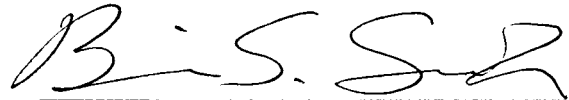
SUPPLEMENTAL ANSWER TO INTERROGATORIES

Defendant Union Labor Life Insurance Company, by its attorneys Kenneth L. Thompson, Brian S. Smith, and Piper & Marbury, hereby supplements its answers to interrogatories propounded by plaintiff Joseph Rolnik as follows:

INTERROGATORY NO. 5: State the names, addresses and telephone numbers all experts whom you propose to call as witnesses, and state the subject matter upon which the expert is expected to testify; the substance of the findings and opinions to which the expert is expected to testify; a summary of the grounds for each opinion; and attach to these Answers any written reports made by any expert concerning these findings and opinions.

ANSWER: (a) Anthony M. D'Agostino, M.D., S.C., 800 West Biesterfield Road, Elk Grove Village, Illinois 60007, (312) 351-4560. Dr. D'Agostino is expected to testify about whether the treatment Debra Rolnik received while she was at Sheppard Pratt Hospital was medically necessary. His opinions will be based on the patient's condition and whether acute hospital care was likely to be beneficial to her. Dr. D'Agostino is of the opinion that long-term inpatient care was not in her best interest nor likely to result in improvement to her condition. His report is attached.

SUPPLEMENTAL ANSWER: (note new address for Dr. D'Agostino, above) Dr. Michael Spodak, 1018 Dulaney Valley Road, Towson, Maryland 20214, (301) 321-0343. If called as a witness, Dr. Spodak may testify with regard to whether the treatment of Debra Rolnik and Sheppard Pratt was medically necessary, whether Ms. Rolnik's condition improved as a result of her hospitalization, what Ms. Rolnik's current condition is, and with regard to Dr. D'Agostino's findings, conclusions and report. Dr. Spodak will examine the records of Ms. Rolnik's various treatments and will perform a psychiatric examination of Ms. Rolnik and issue a report with his findings.




Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorney for Union Labor Life

Certificate of Service

I hereby certify that on this 31st day of July, 1989, a copy of the foregoing supplemental answer to interrogatory was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

FILED

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JUL 13 1989
CIRCUIT COURT FOR
BALTIMORE CITY

JOSEPH ROLNIK, et al,
Plaintiffs,

* IN THE CIRCUIT COURT
* FOR
* BALTIMORE CITY

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al,
Defendants.

*
* CASE NO:
* 87313071/CL73531
*

* * * * *

SHEPARD & ENOCH PRATT HOSPITAL'S OPPOSITION TO
UNION LABOR LIFE'S MOTION FOR SUMMARY JUDGMENT

Defendant, Shepard & Enoch Pratt Hospital (the
"Hospital"), by its attorneys, opposes the Motion for
Summary Judgment filed by Defendant Union Labor Life
Insurance Company ("Union") and for reasons states as
follows:

INTRODUCTION

Union has moved for summary judgment solely on the
ground that the Plaintiffs' claims are preempted by the
Employee Retirement Income Security Act of 1974 (ERISA).
Union has not challenged the Plaintiffs' claims that Union
wrongfully and maliciously refused to pay benefits due
under the health insurance policy issued by Union. There
is indeed no dispute that Union's claims administrator E.
I. Shaffer and Company represented that the claims were
covered, that the information provided to the Plaintiffs by
Union also indicated that the claims were covered, and that
Union waited until after the medical services had been
rendered to disallow the claims. See, e.g., Shaffer
Deposition at pp. 48-52, 75-79. (attached) Union has not

questioned this Court's jurisdiction to hear this case and award damages to the Plaintiffs. Rather, ignoring the evidence in support of the Plaintiffs' claims against Union, Union argues that it is entitled to summary judgment because the First Amended Complaint does not specifically refer to ERISA.

In fact, the First Amended Complaint does state a cognizable claim under ERISA for wrongful denial of benefits. It is the Hospital's understanding that, to avoid any question in this regard, the Plaintiffs will shortly file a Second Amended Complaint specifically tailored to ERISA, which will moot the motion for summary judgment. Moreover, even if the Complaint did not state a claim under ERISA, Union has failed to meet its burden of setting forth sufficient facts to establish the affirmative defense of ERISA preemption. Consequently, the motion for summary judgment must be denied.

I. The Motion for Summary Judgment will be rendered moot by the Plaintiff' Second Amended Complaint.

It is the Hospital's understanding that the Plaintiff will very shortly file an appropriate Second Amended Complaint which will include counts specifically tailored to ERISA. As the sole basis for the motion for summary judgment is that the Plaintiffs' claims are preempted by ERISA, this Second Amended Complaint will render the motion for summary judgment moot. Accordingly, ruling on the motion for summary judgment should be stayed

pending the filing of an appropriate amended complaint by the Plaintiffs.

**II. The Complaint as pled
states a valid claim under ERISA.**

In a very recent case, the Maryland Court of Appeals ruled that the trial judge erred when he entered summary judgment against the plaintiff on the ground that the subject matter of the complaint was preempted by ERISA. Foy v. Prudential Insurance Company of America, 1989 Md. LEXIS 98 (Md. 6/19/89) (copy attached hereto). In the Foy case, the Court of Appeals made clear that Maryland courts can provide relief under ERISA, and summary judgment is not appropriate when a plaintiff has stated a claim under ERISA.

Like the plaintiff in Foy, the Plaintiffs in this case have filed suit to recover benefits under a group insurance plan. ERISA specifically authorizes suits of this nature:

A civil action may be brought . . . by a participant or beneficiary . . . to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan . . .

28 U.S.C. §1132(a)(1)(B). State courts have concurrent jurisdiction with the federal courts over such actions. 29 U.S.C. §1132(e)(1). Assuming that, as alleged in the motion for summary judgment, there is no dispute that the Plaintiff's insurance was an employee welfare benefit plan

under ERISA, the First Amended Complaint has stated a cause of action under ERISA.

That the ERISA statute was not specifically referred to in the body of the First Amended Complaint should not defeat the Plaintiffs' right to recovery against Union. Indeed, Maryland Rule 2-303(b) specifically discourages such technical formulations:

Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings are required. A pleading shall contain only such statements of fact as may be necessary to show the pleader's entitlement to relief or ground of defense. It shall not include argument, unnecessary recitals of law, evidence, or documents, or any immaterial, impertinent, or scandalous matter.

Id. (Emphasis added). Similarly, Maryland Rule 2-341(c) provides, "Errors or defects in a pleading not corrected by amendment shall be disregarded unless they affect the substantial rights of the parties." The mere fact that the Plaintiffs failed to allege that federal law rather than state law might apply to this case should not render the First Amended Complaint null and void. Maryland courts have long held that the substance, not the form, of pleading is the controlling consideration. See, e.g., Lapp v. Stanton, 116 Md. 197, 199, 81 A. 675, 676 (1911); Shipley v. Meadowbrook Club, Inc., 211 Md. 142, 151, 126 A.2d 288, 292 (1956).

Moreover, Union has waived any claim that the Plaintiffs failed to properly set forth a separate count

under ERISA. Union failed to raise such a defense in its Answer and has waited until barely two months before trial to raise the issue. See, e.g., Kirschner v. Allied Contractors, 213 Md. 31, 131 A.2d 251, 253 (1957) (objection to defects of form of complaint waived if not seasonably taken).

There can be no doubt that, whether the Plaintiffs' claims are cast in terms of ERISA or in terms of common law codified by ERISA, this Court has jurisdiction to hear the claims and grant relief. Even if the Complaint did not adequately set forth a claim in terms of ERISA, summary judgment would be a harsh and unfair remedy for a mere technical inadequacy in pleading. See, e.g., Crowe v. Houseworth, 272 Md. 481, 489, 325 A.2d 592, 597 (1974); Thomas v. Ford Motor Credit Co., 48 Md. App. 617, 632, 429 A.2d 277 (1981) (" . . . leave to amend should be generously granted.").

III. This case does not fall within the doctrine of Pilot Life

In its motion for summary judgment, Union relies almost exclusively on the recent Supreme Court case of Pilot Life Insurance Company v. Dedeaux, 481 U.S. 41, 107 S.Ct. 1549 (1987). This reliance is misplaced. In the Pilot Life case, the plaintiff disclaimed reliance on ERISA and relied entirely on the state common law of bad faith. As the Supreme Court took pains to note, "Dedeaux did not assert any of the several causes of action available to him

under ERISA." Id. at 107 S.Ct. at 1551. The Plaintiffs in this case, unlike the plaintiff in Pilot Life, have stated a cognizable claim under ERISA, and moreover, will shortly be amending their Complaint so that there can be no question that they fully intend to assert all of their rights under ERISA.

The Pilot Life decision represents a dramatic expansion of plaintiffs' rights under ERISA. Prior to Pilot Life, most claims relating to insurance policies, including claims for bad faith and malicious conduct, were considered beyond the scope of ERISA, and were tried under state law. See, e.g., Trogner v. New York Life Insurance Company, 633 F.Supp. 503 (D. Md. 1986). Under the Supreme Court's analysis in Pilot Life, however, these claims are encompassed by ERISA. ERISA may permit sweeping recovery in such cases, including recovery for benefits due under the policy, extracontractual damages for mental distress or money lost above and beyond the contractual terms, and attorneys' fees. See, e.g., Vogel v. Independence Federal Savings Bank, 692 F.Supp. 587, 596 (D. Md. 1988). As the Plaintiffs in this case are entitled to relief under ERISA, Union's motion should be denied.

IV. Union has failed to establish all of the facts necessary to support its defense of ERISA preemption

Even assuming that the Plaintiffs have not stated a cognizable claim under ERISA, and further assuming that Union has not waived its preemption defense by failing to

raise the defense in a timely manner, Union has failed to set forth all of the facts necessary to support its preemption defense. ERISA preemption is an affirmative defense, and thus the burden is on Union to establish the facts necessary to support it. Kanne v. Connecticut General Life Insurance Co., 867 F.2d 489, 492 (9th Cir. 1988).

In support of its contention that the Union policy is an employee welfare benefit plan, Union states simply, "there is no dispute here that Mr. Rolnik's insurance was provided by his union as part of his fringe benefits . . . accordingly, the policy falls within ERISA's ambit." The mere fact, however, that Mr. Rolnik's union maintained a health insurance policy for its members is insufficient to demonstrate that the policy is an employee welfare benefit plan within the meaning of ERISA. See, e.g., Kanne, supra. The Department of Labor has issued regulations excluding certain group insurance programs from ERISA's definition of "employee welfare benefit plan":

For purposes of Title 1 of the Act in this Chapter, the terms "employee welfare benefit plan" "welfare plan" shall not include a group or group-type insurance program offered by an insurer to employees or members of an employee organization under which

(1) no contributions are made by an employer or employee organization;

(2) participation in the program is completely voluntary for employees or members;

(3) the sole functions of the employer or employee organization with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees or members, to collect premiums through payroll deductions or dues check offs and to remit them to the insurer; and

(4) the employer or employee organization received no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deductions or dues check offs.

29 C.F.R. §2510.3-1(j)(1987). Union's motion does not set forth any evidence or even any allegations concerning any of these factors. As the Ninth Circuit observed in Kanne, the Defendant must establish compliance with these regulations in order to establish the existence of an employee welfare benefit plan for the purposes of ERISA preemption:

A bare purchase of insurance, without any of the above elements present, does not by itself constitute an ERISA plan (although it may be evidence of the existence of an ERISA plan). An employer has not established an ERISA plan if it merely advertises a group insurance plan that has none of the attributes described in 29 C.F.R. §2510.3-1(j).

Kanne, 867 F.2d at 492 (citations omitted). Union has thus fallen short of its burden to establish the fundamental element of its ERISA pre-emption defense: the existence of

an employee welfare benefit plan within the meaning of ERISA.

CONCLUSION

The Plaintiffs have set forth a strong prima facie case, unchallenged by Union's motion, in support of their claim for wrongful denial of plan benefits. As ERISA was enacted to protect the rights of plan beneficiaries and participants, it would wholly distort the purpose of ERISA to permit it to be used as a shield against liability for wrongful denial of plan benefits. See, e.g., 29 U.S.C. §1001 (b) (Policy of ERISA to protect interests of participants and their beneficiaries and to provide appropriate remedies). Even if Union's motion had merit, the appropriate course would be to permit the Plaintiffs to amend their claim to conform to ERISA, not to deny the Plaintiffs relief for the exact type of injustice ERISA was enacted to prevent.

Because the motion for summary judgment will shortly be mooted by the filing of a Second Amended Complaint, because the First Amended Complaint as drafted states a cognizable claim under ERISA, and because the Defendant has failed to establish the necessary elements of the affirmative defense of ERISA preemption, Union's motion for summary judgment must be denied.

Respectfully submitted,


Thomas M. Trezise

SEMMES BOWEN & SEMMES
401 Washington Avenue
Post Office Box 6705
Towson, Maryland 21285
(301) 296-4400

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of July, 1989, a copy of the foregoing Shepard & Enoch Pratt Hospital's Opposition To Union Labor Life's Motion For Summary Judgment, was mailed, first-class, postage-prepaid to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, Fourth Floor, Baltimore, Maryland 21202; Kristine A. Crosswhite, Esquire, Miles & Stockbridge, 10 Light Street, Baltimore, Maryland 21202, and Brian S. Smith, Esquire, Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201.


Thomas M. Trezise

00026-01374

JOSEPH ROLNIK, et al,
Plaintiffs,

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al,
Defendants.

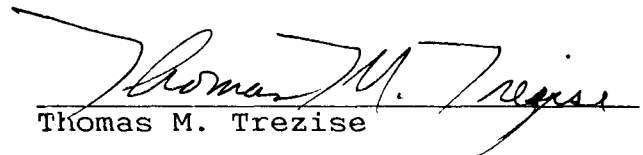
* IN THE CIRCUIT COURT
* FOR
* BALTIMORE CITY
*
* CASE NO:
* 87313071/CL73531
*

* * * * *

REQUEST FOR HEARING

Defendant, Shepard and Enoch Pratt Hospital
Hospital, by its attorneys, requests a hearing on its
opposition to the Motion for Summary Judgment filed by
Defendant, Union Labor Life Insurance Company.

Respectfully submitted,


Thomas M. Trezise

SEMMES, BOWEN & SEMMES
401 Washington Avenue
Post Office Box 6705
Towson, Maryland 21285

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Thomas M. Trezise

1 JOSEPH ROLNIK, et al, * IN THE
2 Plaintiffs, * CIRCUIT COURT
3 vs. * FOR
4 THE UNION LABOR LIFE * BALTIMORE CITY
5 INSURANCE COMPANY, et al, *
6 Defendants. * Case No. 87313071/CL73531

7 * * * * *

8 Pursuant to Notice, the deposition of GLENN SHAFFER
9 was taken on Friday, January 20, 1989, commencing at 9:00 a.m.,
10 at the law offices of Miles and Stockbridge, 1200 - 10 Light
11 Street, Baltimore, Maryland, 21202, before James F. O'Brien,
12 Jr., a Notary Public.

13 APPEARANCES:

14 Mark T. Mixter, Esquire,
On behalf of the Plaintiffs Rolniks.
15 Thomas M. Trezise, Esquire,
On behalf of the Plaintiff Sheppard Pratt.
16 Lettie Moses, Attorney at Law,
17 On behalf of the Defendant The Union Labor Life
Insurance Company.
18 Kristine A. Crosswhite, Attorney at Law,
19 On behalf of the Defendant I. E. Shaffer and
Company.

20 Reported by:
21 James F. O'Brien, Jr.

1 A December, 1985 is when the actual endorsement was
2 signed.

3 Q Did you raise any objection to this language at that
4 point?

5 A No.

6 Q But, as you said, when you negotiated with Union
7 Labor Life, there was no mention of this sort of limitation;
8 was there?

9 A No, we didn't ask for it. We didn't want it. It was
10 not our intent to provide it that way.

11 Q Have you ever seen this used in any other policy?

12 A Not that I can recall. We routinely will increase
13 maximums such as this with not only Union Labor Life, but other
14 carriers that we deal with, such as Aetna, or whatever. And
15 when we tell the carrier we want to go from a hundred thousand
16 dollars to a million, that is exactly what it means, nothing
17 less than that.

18 Q Go ahead.

19 A This particular rider did contain the other pro-
20 visions of the contract. And I, frankly, dismissed it. I
21 didn't even think about it after that. The provision, I did

1 not pass on the nature of that provision to Julie Carabelli or
2 Dave Wiater. They were not aware of it.

3 And we subsequently received the booklet certificate
4 from Union Labor Life.

5 MS. CROSSWHITE: You are referring to Exhibit 14?

6 THE WITNESS: 14. Which made no mention of it in
7 that Exhibit, and that booklet certificate was then distributed
8 to all plan participants.

9 And it was our intention to -- and they were to --
10 claims paid under the plan were paid in accordance with that
11 booklet certificate.

12 BY MR. MIXTER:

13 Q To your knowledge, no plan participant received the
14 specific limiting language that is reflected in Miss Barsky's
15 letter of December 5th, 1986?

16 A Correct.

17 Q Including the Rolniks?

18 A Including the Rolniks.

19 Q They had no idea, to your knowledge, unless someone
20 told them independently, there was such a limit on the appli-
21 cability of the million dollar limit; is that right?

1 A Right.

2 Q To your knowledge, had anyone at any point in time
3 prior to this letter of December 5th, 1986 communicated from
4 your office with either the Rolniks or Sheppard Pratt that
5 there was an increase in the major medical coverage from a
6 hundred thousand dollars to a million dollars? Had there been
7 such communication from your office to either Sheppard Pratt or
8 the Rolniks, to your knowledge?

9 A I'm sure there was.

10 Q Who would have made that communication?

11 A It would have been made from several sources. First
12 probably a letter sent from my office to all plan participants
13 advising them in general terms as far as what the increase in
14 benefits was, increase in the maximum, dental benefits, what-
15 ever else we did at that time.

16 There was a subsequent communication with this book-
17 let certificate adding it had been increased.

18 Q The booklet certificate was prepared by Union Labor
19 Life?

20 A Right. The explanation of benefits that we sent out
21 along with claim payments indicates what the major medical

1 max is and the amount paid towards that max. So, starting in
2 April, 1985, that max began to indicate the max was a million
3 dollars.

4 Q Would those communications or letters you just re-
5 ferred to still be maintained in your file?

6 A Yes.

7 MR. MIXTER: Can we get copies?

8 MS. CROSSWHITE: Yes. Backtrack, I'm sure we can
9 get -- I just found out about the letter advising the increase
10 last night.

11 THE WITNESS: I don't know if I have it or not have
12 it. My recollection would be I would have sent some sort of
13 communication out.

14 MS. CROSSWHITE: The explanation of benefits, as I
15 understand it, is something that would be printed on your --

16 THE WITNESS: The computer prints it out.

17 MS. CROSSWHITE: On any sort of claim payment forms,
18 you obviously don't want all the claim payment forms. I would
19 be happy to hire ten trucks at your expense.

20 MR. MIXTER: No. An example would be helpful.

21 MS. CROSSWHITE: Can we do that?

1 THE WITNESS: Sure.

2 MR. TREZISE: If you have anything on the Rolnik
3 case, that would be terrific.

4 THE WITNESS: Finally, I'm sure that in the course of
5 conversation, that Julie Carabelli, her particularly, and pos-
6 sibly David Wiater, communicated over the phone with Sheppard
7 Pratt or with Zachary Rolnik that there was an increase in the
8 maximum, had it been asked.

9 I don't know if they specifically asked it or not,
10 but certainly they were telling all other plan participants it
11 was a million dollars, and there was no doubt in their mind
12 that it was.

13 BY MR. MIXTER:

14 Q When you got or first received -- strike that.

15 Subsequent to your receiving the first time from The
16 Union Labor Life the precise language, limiting language re-
17 flected in Miss Barsky's letter of December 5, 1986, which is
18 an Exhibit, was that limitation communicated to any of the
19 Rolniks by anyone in your shop, to your knowledge?

20 A No.

21 Q And -- all right.

1 Q I wonder if it ever will.

2 A I was frustrated on several counts by Union Labor
3 Life, primarily in the way this claim was handled, how long it
4 took. I thought it was unfair the way it was disposed of.

5 As I indicated earlier, my intent and the way we
6 handle -- would handle other claims of this nature and have
7 handled other claims of that nature with this carrier and with
8 other carriers, if we are paying for something all along and
9 that person is relying on the fact we are paying it and then we
10 review it and it's determined we should not pay for it in the
11 future, that is exactly what we should do. In the future, put
12 people on notice these are the reasons we don't feel the claim
13 is eligible, and from this date forward, we don't feel we
14 should pay for it.

15 If it's a brand new claim we have never seen before,
16 somebody submits for the first time, then they are asking you
17 to make a determination for services already rendered, that is
18 a different story. But here, in fact, we were making payments.
19 I felt it was unfair from that point of view.

20 Q Are you saying that because it's your perception in
21 this instance the Rolniks were justifiable or reasonably relied

1 upon the fact that payments were made up to that point of time?

2 MS. CROSSWHITE: Let me enter an objection for the
3 record for reasons lost on no one around this table.

4 MR. MIXTER: You can still answer the question. I'm
5 not sure Mr. Shaffer understands he is still obligated to
6 answer.

7 MS. CROSSWHITE: You may answer the question.

8 MR. MIXTER: The objection is to preserve the record.

9 THE WITNESS: What was the question again? I forget
10 now.

11 MS. CROSSWHITE: Do you feel the Rolniks justifiably
12 and reasonably relied on --

13 MR. MIXTER: That was not exactly the question.
14 Maybe I better have the Court Reporter read it.

15 (Whereupon, the question was read back by the
16 Reporter.)

17 BY MR. MIXTER:

18 Q Now do you understand it? I will rephrase it.

19 A Rephrase it.

20 Q Your statement a few moments ago concerning your
21 feelings with respect to claims that you have been paying for

1 a certain point in time, which where at some later point in
2 time, it was determined that they would not be paid any longer,
3 it's your perception you should stop payments only into the
4 future; correct?

5 A Correct.

6 Q Is your feeling along those lines as it relates to
7 this case and the Rolniks specifically generated because you
8 felt the Rolniks had justifiably and reasonably relied upon the
9 continuation of coverage based on the payments that had been
10 made on Deborah Rolnik's behalf for the period of July, I
11 believe, of 1984 through January, or, actually, May, 1986?

12 MS. CROSSWHITE: Objection.

13 Go ahead and answer.

14 A Well, in answer to your question, yes, they had some
15 reliance. The booklet certificate they have in their pos-
16 session is also clear with respect to medical necessity, not
17 that they have read it or not, but documents given to them clearly
18 describe medical necessity.

19 BY MR. MIXTER:

20 Q Right.

21 A I don't particularly have any problem with the

1 decision Union Labor Life made to turn the claim down. That
2 is their judgment and the opinion of their medical advice. I
3 didn't like the way it was done. I was -- the claim was referred
4 there with the anticipation we would get a prompt review, thirty
5 to sixty days, some decision would be made as to whether to
6 continue or discontinue.

7 And if the decision was made to discontinue at that
8 point, it would be done on a prompt basis without the so-called
9 meter running, as I described to Mr. O'Sullivan. So, I was
10 disturbed in that area.

11 Q Was there any understanding between you and Union
12 Labor Life as to how fast they would do a review, either in
13 this specific instance or generally?

14 A No, there is no written guidelines that I know of,
15 no verbal communication as to how long these reviews take.
16 Obviously there are going to be some reviews which can be done
17 relatively quickly and some can be done over the phone.

18 Some are more involved in sending claims out to be
19 reviewed to a physician, obviously is probably one of the
20 longest types of things you can expect, but, nevertheless, it
21 seemed to take an awful long time for this to be reviewed.

26TH CASE of Level 2 printed in FULL format.

ALICE JOYCE FOY v. THE PRUDENTIAL INSURANCE COMPANY OF
AMERICA et al.

No. 106 September Term, 1988

Court of Appeals of Maryland

1989 Md. LEXIS 98

June 19, 1989, Filed

[*1]

Eldridge, Cole, Rodowsky, McAuliffe, Adkins, Blackwell, Smith, Marvin H.
(retired, specially assigned), JJ.

Samuel M. Grant (David J. Preller, Sr., Preller and Preller, all of brief)
all of Baltimore, Maryland, FOR APPELLANT.

Thomas M. Wood, IV (Peter F. Axelrad, William L. Reynolds, Brian L. Wallace,
Frank, Bernstein, Conaway & Goldman, all on brief) all of Baltimore, Maryland,
ARGUED BY: Benson Everett Legg (Venable, Baetjer and Howard, both on brief) both
of Baltimore, Maryland, FOR APPELLEE.

SMITH

Opinion by Smith, J.

We shall here hold that a trial judge erred when he entered summary judgment in favor of all defendants as to all counts of a complaint based on the fact that the subject matter was preempted by the Employee Retirement Income Security Act of 1974 ("ERISA"). Plaintiff had included a well-pleaded count in her complaint based specifically on ERISA. In the view we take of this case in the light of the way it reaches us procedurally we do not reach the interesting question of how the ERISA plan in question should be construed.

David Brian Fox, son of Mrs. Alice Joyce Foy, the appellant, died in a motorcycle accident on June 23, 1985. At the time of his death Fox was an [*2] employee of appellee Locke Insulators, Inc. Included in Locke's program of employee benefits was the opportunity to purchase various forms of insurance under the Insurance Plan for Hourly Employees. The insurance was underwritten by another appellee, The Prudential Insurance Company of America. It provided a group policy for Locke.

On January 15, 1985, Fox signed a form entitled "Locke Insulators, Inc. Personal Accident Insurance." The amount of insurance he chose was \$ 150,000. Mrs. Foy was named as the beneficiary of the policy. Locke and Prudential accepted insurance premiums on the policy from January, 1985, to June, 1985, when Fox died. Fox never received notice from Locke or Prudential of any irregularity in his insurance policy.

Upon Mrs. Foy's application for death benefits after her son's death, Prudential paid \$ 100,000 to her, but refused to pay the remaining \$ 50,000. It tendered a check for \$ 15.18 which represented the amount of premiums for the additional \$ 50,000 in insurance coverage. Mrs. Foy has never cashed the check

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which is now held by her attorney.

Prudential and Locke assert that Fox was eligible for a maximum of \$ 100,000 in personal accident insurance, and [*3] thus that the \$ 150,000 policy was improperly issued. The maximum amount clause in question states in relevant part:

"Maximum amount . . . shall not exceed either

"(a) The greater of (i) \$ 100,000 and (ii) five times his annual earnings, or

"(b) \$ 250,000."

The salary of Fox was between \$ 18,000 and \$ 19,000 per year at the time of his death. From this it is the contention of Mrs. Foy that the maximum amount of insurance was \$ 100,000 plus five times the annual earnings, an amount in excess of \$ 150,000. On the other hand, appellees contend that the maximum was \$ 100,000 because the maximum was whichever was the greater, \$ 100,000 or five times his annual earnings, with no more than \$ 250,000 to be obtained in any event.

Mrs. Foy sued Locke and Prudential in the Circuit Court for Baltimore City. The complaint sought damages for common law breach of contract. Prudential asserted, among other defenses, that Mrs. Foy's claim was preempted by ERISA. n1 After Mrs. Foy completed her discovery she filed a motion for summary judgment as well as a second amended complaint adding an ERISA count. In due season a third amended complaint was filed which added Locke Insurance Plan for Hourly Employees, [*4] another appellee here, as a defendant and asserted an ERISA claim against it.

n1 29 U.S.C. § 1144(a) (1982) states in pertinent part:

"[T]he provisions of this subchapter . . . shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in Section 1003(a). . . ."

This was such a plan.

A hearing on the motion for summary judgment was held. Unfortunately, there appears to have been no court reporter present. The ruling of the trial judge, made in writing, reads in its entirety:

"Plaintiff's Motion for Summary Judgment DENIED as to all counts. Subject matter preempted under federal ERISA statute.

"Judgment entered in favor of all defendants as to all counts. Maryland Rule 2-501(e)."

This appeal followed. We issued a writ of certiorari on our own motion prior to a hearing in the Court of Special Appeals. Mrs. Foy concedes that ERISA preempts the original common law contract count.

It is asserted that the presence of an ERISA count was brought to the attention of the trial judge who heard the motion. It appears not to have occurred to counsel that a motion might have been filed specifically noting

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this fact and asking [*5] the trial judge to clarify his ruling.

Summary judgment procedure is not a substitute for a trial, but is merely a preview to determine whether there exists a factual controversy requiring a trial. *Metropolitan Mtg. Fd. v. Basiliko*, 288 Md. 25, 28, 415 A.2d 582, 584 (1980) (citing *Impala Platinum v. Impala Sales*, 283 Md. 296, 326, 389 A.2d 887 (1978), and *White v. Friel*, 210 Md. 274, 285-86, 123 A.2d 303 (1956)).

Where the moving party has set forth sufficient grounds for summary judgment, the party opposing the motion must show with some precision that there is a genuine dispute as to a material fact. *Liscombe v. Potomac Edison Co.*, 303 Md. 619, 633, 495 A.2d 838, 845 (1985) (citing *Brown v. Suburban Cadillac Inc.*, 260 Md. 251, 255, 272 A.2d 42, 44 (1971)). If there is any genuine dispute as to any material fact, summary judgment would not properly be granted. *Washington Homes v. Inter. Land Dev.*, 281 Md. 712, 716, 382 A.2d 555, 557 (1978). In *Fenwick Motor Co. v. Fenwick*, 258 Md. 134, 265 A.2d 256 (1970), Judge J. Dudley Digges said for the Court:

"In a summary judgment proceeding even where the underlying facts are undisputed, if those facts are susceptible [*6] of more than one permissible inference, the choice between those inferences should not be made as a matter of law, but should be submitted to the trier of fact. *McDonald v. Burgess*, 254 Md. 452, 454, 255 A.2d 299 (1969); *Liebergott v. Investment Bldg.*, 249 Md. 584, 241 A.2d 138 (1968); *Reeves v. Howar*, 244 Md. 83, 90, 222 A.2d 697 (1966); *M. & C. C. v. Allied Contractors*, 236 Md. 534, 544, 204 A.2d 546 (1964); *Roland v. Lloyd E. Mitchell, Inc.*, 221 Md. 11, 14, 155 A.2d 691 (1959); *White v. Friel*, 210 Md. 274, 285-86, 123 A.2d 303 (1956)." 258 Md. at 138, 265 A.2d at 258.

Although a trial court is allowed discretion to deny a motion for summary judgment in favor of a full hearing on the merits, a court cannot draw upon any discretionary power to grant summary judgment. *Basiliko*, 288 Md. at 28, 415 A.2d at 583. In that case, Judge Digges again wrote for the Court and said:

"[W]hile Md. Rule 610 d 1 states that when a movant is entitled to judgment as a matter of law, the court should render judgment forthwith, this does not mean that entry of judgment may not be delayed until after a trial on the merits, should, in the court's mind, the promotion [*7] of justice require it. See *Dev. Sales Co. v. McWilliams*, 254 Md. 673, 677, 255 A.2d 1, 3-4 (1969); *Jacobson v. Julian*, 246 Md. 549, 553-54, 229 A.2d 108, 112 (1967). . . . [W]e are not unaware that there exists a few decisions of this Court which have, without discussing the precise issue we address here, reversed the denial of a summary judgment motion and, in effect, directed the entry of such a judgment following a contrary factual finding when the action was tried on its merits. See, e.g., *Melbourne v. Griffith*, 263 Md. 486, 283 A.2d 363 (1971); *Nardo v. Favazza*, 206 Md. 122, 110 A.2d 676 (1955). To the extent that these and similar cases indicate a holding contrary to that announced here, we decline to follow them.

"Consequently, we now hold that a denial (as distinguished from a grant) of a summary judgment motion, as well as foregoing the ruling on such a motion either temporarily until later in the proceedings or for resolution by trial of the general issue, involves not only pure legal questions but also an exercise of discretion as to whether the decision should be postponed until it can be supported by a complete factual record. . . ." 288 Md. at 28-29, [*8] 415 A.2d at 584.

1989 Md. LEXIS 98, 8

The motions judge in this case erred in granting a motion for summary judgment for the defendants based upon preemption by ERISA when there was an ERISA count. Appellant would now have us decide this case in her favor on the merits but that would amount to a determination on our part that summary judgment should have been granted in her favor. ordinarily It follows from our holdings in Fenwick and Basiliko that/no party is entitled to a summary judgment as a matter of law. It is within the discretion of the judge hearing the motion, if he finds no uncontroverted material facts, to grant summary judgment or to require a trial on the merits. It is not reversible error for him to deny the motion and require a trial. Since the motions judge did not grant summary ordinarily judgment in favor of Mrs. Foy and/no party is ever entitled to summary judgment as a matter of law, it would be improper for us to determine how the motions judge might have exercised his discretion and now determine that summary judgment should have been granted in favor of the plaintiff. Accordingly, in this case we shall reverse the grant of summary judgment and remand for further proceedings [*9] consistent with this opinion.

Upon the remand the trial court will be governed by Firestone Tire & Rubber Co. v. Bruch, 489 U.S. , 109 S. Ct. 948, 103 L. Ed. 2d 80 (1989), which has recently laid down the standard of review for ERISA plans.

JUDGMENT REVERSED AND CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION; COSTS TO ABIDE THE FINAL RESULT.

51
A/C

FILED

28 1989

CIRCUIT COURT FOR BALTIMORE CITY

JOSEPH ROLNIK, et al.

Plaintiffs

v.

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

MOTION TO POSTPONE DEPOSITION OF WITNESS

Defendant Union Labor Life Insurance Company, by its attorneys Kenneth L. Thompson, Brian S. Smith, and Piper & Marbury, moves pursuant to Maryland Rule 2-403(a), for an order directing that the deposition of the witness, Ettie Barsky, be taken on some designated date after August 15, 1989. The grounds for the motion are as follows:

1. This is an action, in part, for breach of contract based, partially, on defendant Union Labor Life Insurance Company's processing of plaintiff Debra Rolnik's claims under the major medical provisions of a health insurance policy.

2. The witness, Ettie Barsky, was deposed regarding her role in processing this claim on January 19, 1989, when 150 pages of testimony was given. A continuation of the deposition has been set for August 1, 1989.

3. Ms. Barsky suffers from hypertension and a medical condition called idiopathic angioedema. She underwent surgery in May and is still in the recovery process. She is under a doctor's care and has been told to avoid stressful situations. (See letters attached as exhibit A and B).

4. Oral conversations with Ms. Barsky's doctor by counsel for Union Labor Life reveal that Ms. Barsky could be ready to continue her deposition in as little as two weeks.



Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorney for Union Labor Life

EXHIBIT A

ARYEH GORENSTEIN, M.D., INC.
122 N EWING ST.
LANCASTER, OHIO 43130
987-8448

7/27/89

To L. AURA SHANNON

Pursuant to my letter 7/21/89 re: ETTIE GARSKY
I strongly recommend (in fact forbid) her not to
be subjected to stressful and tense situations
There is significant potential for harm coming
to her.

If further clarification is needed regarding
her hypertension and angiodema I will
be available to you.

Sincerely,

A. Gorenstein M.D.

EXHIBIT B

ARYEH GORENSTEIN, M.D., INC.

122 N. EWING ST.

LANCASTER, OHIO 43130

687-8445

7/21/89

To whom it may concern;
re: ETTIE BARSKY.

This pt. has been under my care since 1983. Most recently however she underwent surgery 5/5/89 on her neck. Pertinent to her activities and demands upon her, however, the pt. is hypertensive and has idiopathic angioedema. The latter condition is of most concern to me as inciting factors that may trigger her angioedema (swelling of face, lips, tongue, vocal cords, with possible upper airway obstruction) are stress, tension, fatigue, exposure to sudden changes in temperature, smoke, pungent odors, strong perfumes, certain foods etc.

I have advised her to take reasonable measures to avoid stressful and tense situations which may incite and bring on this angioedema (formerly named angioneurotic edema). Fatigue should also be avoided. If you have further questions regarding this pt. I will respond providing I have further written authorized release from Ettie Barsky re: her medical condition.

Sincerely,

Aryeh Gorenstein D.O. M.D. F.A.C.S

* Pt. last seen July 5 with symptoms of angioedema.

JOSEPH ROLNIK, et al.
Plaintiffs
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

ORDER


Upon Defendant's Motion for an Order Postponing the Deposition of witness Ettie Barsky, and after consideration of the issues, it is this _____ day of _____ 1989, by the Circuit Court for Baltimore City, ORDERED:

1. That the continued deposition of witness Ettie Barsky be scheduled by counsel for a date after August 15, 1989.

Date: _____

Certificate of Service

I hereby certify that on this 28th day of July, 1989, a copy of the foregoing motion and proposed order was hand delivered to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

FILED

JOSEPH ROLNIK and
DEBORAH ROLNIK

JUL 28 1989

IN THE

50
J.J.

Plaintiffs

CIRCUIT COURT FOR
BALTIMORE CITY,

CIRCUIT COURT

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAFFER

FOR

BALTIMORE CITY

Defendants

87313071/CL73531

* * * * *

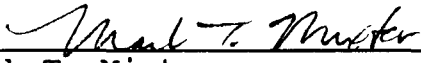
REQUEST FOR HEARING

Now comes the plaintiffs by their counsel, Mark T. Mixer and Smith, Somerville & Case and respectfully request a hearing on the motion to compel the plaintiff to undergo a mental examination filed on behalf of the defendant, Union Labor Life Insurance Company. The plaintiffs further assert that they are entitled to fifteen days to respond to the motion in accordance with Rule 2-311. The plaintiffs will file a responsive memorandum of law within the fifteen days afforded the plaintiff in accordance with Rule 2-311. The motion was received on July 20, 1988, therefore, a response is due on August 4, 1989. However, the motion apparently seeks to have a ruling in advance of that date as the motion states that the defendant wishes to have the plaintiff examined on August 3, 1989. Plaintiffs oppose a ruling prior to the mandated expiration of fifteen days.

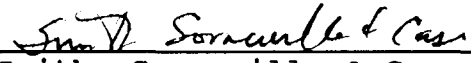
Moreover, defendant's motion also fails to comply with the certificate requirement of Rule 2-431. Accordingly, it is requested that a hearing be scheduled on the motion to

AT

compel plaintiff to undergo a mental examination for some date not sooner than fifteen days beyond the date of the filing of the defendant's motion.



Mark T. Mixer



Smith, Somerville & Case
100 Light Street, Fourth Floor
Baltimore, Maryland 21202
(301) 727-1164

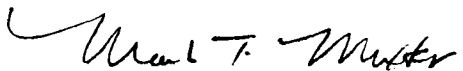
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of July, 1989,
a copy of the foregoing request for hearing was mailed to:

Thomas M. Trezise, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Towson, Maryland 21204

Kirstine A. Crosswhite, Esquire
Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202

Brian S. Smith, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201



Mark T. Mixer

FILED

19 1989

CIRCUIT COURT FOR
BALTIMORE CITY

YgDd.

JOSEPH ROLNIK, et al.

Plaintiffs

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.

Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

MOTION TO COMPEL PLAINTIFF

TO UNDERGO A MENTAL EXAMINATION

Defendant Union Labor Life Insurance Company, by its attorneys Kenneth L. Thompson, Brian S. Smith, and Piper & Marbury, pursuant to Maryland Rule 2-423, hereby moves this court to issue an order requiring the plaintiff, Debra Rolnik, to undergo a mental examination on August 3, 1989, at 9:00 a.m. at the office of Dr. Michael Spodak, 1018 Dulaney Valley Road, Towson, Maryland 20214. Such examination will consist of an assessment of the present mental condition of the plaintiff utilizing standard psychiatric methods, as well as an evaluation of the progress made while hospitalized for psychiatric treatment from July, 1984 to March, 1987, and since her discharge.

In support of this motion the Defendant states:

1. The plaintiff, Debra Rolnik, was hospitalized for psychiatric treatment for almost three years.

2. The plaintiffs have brought an action against defendant Union Labor Life and other defendants, alleging, among other things, breach of contract, and seeking, among other things, payment of the plaintiff's outstanding hospital bills.

3. Whether or not Union Labor Life is liable for payment of plaintiff's outstanding hospital bills is a primary issue in this case.

4. Union Labor Life denied liability for further payments based upon a medical opinion that continued hospitalization was not medically necessary, and that such hospitalization was not justified after an initial six-month period.

5. The medical necessity determination was based partially upon lack of significant improvement in the plaintiff's condition while hospitalized.

6. The medical opinion was rendered after a review of hospital records only, while the plaintiff was still hospitalized, and did not consist of an in-person examination.

7. An independent in-person examination is necessary now for this defendant to obtain an expert opinion on the plaintiff's afflictions and on the effectiveness of the treatments rendered by the hospital, both before and after the issuance of the medical necessity report.

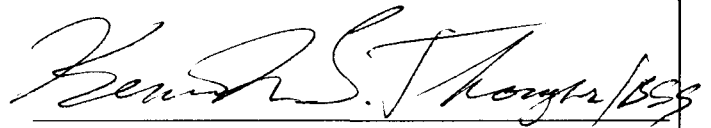
8. The plaintiffs present mental condition is material to the defendants medical necessity defense and to the plaintiffs' claims for damages sustained after her discharge from the hospital.

9. The plaintiff's mental condition, and the necessity of hospitalization, are fundamental controversies in this case. Union Labor Life, therefore, is entitled to an independent evaluation of the plaintiff's mental condition.

10. Defendant Union Labor Life will be greatly prejudiced at trial if the only testimony with regard to the plaintiff's mental condition, based on in-person examinations, is presented by the plaintiffs' experts.

11. Counsel for defendant Union Labor Life have made reasonable attempts to schedule such an examination with plaintiffs' counsel without success.

WHEREFORE, defendants request that this court enter a order, pursuant to Md. Rule 2-423, compelling the plaintiff to undergo the above-stated examination.



Kenneth L. Thompson



Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorneys for Defendant
Union Labor Life

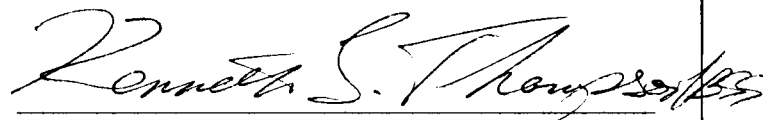
JOSEPH ROLNIK, et al.
Plaintiffs
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants


* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

REQUEST FOR HEARING

Defendant Union Labor Life Insurance Company hereby requests that this court schedule a hearing on its motion to compel the plaintiff to undergo a mental examination.


Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorneys for Defendant
Union Labor Life

JOSEPH ROLNIK, et al.
Plaintiffs
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

ORDER

Upon Defendant's Motion for a Order Compelling the Plaintiff to Submit to A Mental Examination, and after consideration of the issues, it is this _____ day of _____ 1989, by the Circuit Court for Baltimore City, ORDERED:

1. That the Plaintiff shall submit to a mental examination as provided in the Defendant's motion.

2. That the results of the examination shall be reported by Dr. Spodak in writing in a detailed report setting out his findings and conclusions, a copy of which shall be delivered to the plaintiffs.

3. That the expenses of such examination shall be borne by the defendant Union Labor Life Insurance Company.

Date: _____

Certificate of Service

I hereby certify that on this 19th day of July, 1989, a copy of the foregoing motion, request for hearing, and proposed order was mailed, postage prepaid, to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Attorney for the plaintiffs; Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285, attorney for defendant Sheppard-Pratt Hospital; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202, attorney for defendant I.E. Shaffer Co.



Brian S. Smith

SK/ST

4/1/89

FILED

JUN 10 1989

CIRCUIT COURT FOR BALTIMORE CITY

JOSEPH ROLNIK, et al.

* IN THE

Plaintiffs

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE INSURANCE COMPANY, et al.

* BALTIMORE CITY

Defendants

* Case No: 87313071/CL73531

*

* * * * *

DEFENDANT UNION LABOR LIFE INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT

Defendant, The Union Labor Life Insurance Company ("Union Labor"), moves that this Court enter Summary Judgment in its favor on all claims in the above-captioned action pursuant to Maryland Rule 2-501. As reasons for this Motion, Union Labor states:

1. Plaintiffs have brought this action under four state-law causes of action; misrepresentation, fraud, breach of contract, and declaratory judgment. Plaintiffs seek recovery from several defendants, including Union Labor.

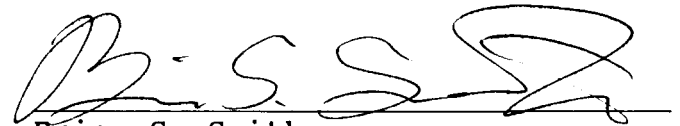
2. There is no genuine dispute of material fact that the insurance at issue was provided by plaintiff Joseph Rolnik's union as part of the union's benefits program. Because the insurance in question was issued as part of the union's employee benefit plan, the plaintiffs' action is pre-empted by the federal Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001 et seq. (1985), as explained more fully in the Statement of Grounds and Authorities which is filed herewith and incorporated herein by reference.

3. Pursuant to ERISA, state-law causes of action that relate to benefits provided under an employee benefit cannot be properly maintained. See 29 U.S.C. § 502(a)(1)(B).

WHEREFORE, Defendant Union Labor Life Insurance Company respectfully requests that this Court enter Summary Judgment in its favor on all claims herein.

Respectfully submitted,


Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorneys for The Union Labor
Life Insurance Company

JOSEPH ROLNIK, et al.
Plaintiffs
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

DEFENDANT UNION LABOR LIFE INSURANCE COMPANY'S
STATEMENT OF GROUNDS AND AUTHORITIES IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT

Defendant The Union Labor Life Insurance Company ("Union Labor") has moved for summary judgment in the above-referenced case. The plaintiffs' common law claims for misrepresentation, fraud, breach of contract, and declaratory judgment are pre-empted by the federal Employee Retirement Income Security Act, 29 U.S.C. §§ 1001 et seq. (1985) ("ERISA"). Accordingly, this case is improperly brought and cannot be maintained because the plaintiffs have not set forth a cognizable claim upon which this Court can grant relief.

FACTS

On July 17, 1984, plaintiff Debra Rolnik was admitted to Sheppard-Pratt hospital as an in-patient for treatment of several problems, including mental disorders and substance abuse. Her father, plaintiff Joseph Rolnik, made claims under the major medical provision of the group insurance policy

issued to the welfare fund of his union, the Hudson County Carpenters Union. This policy is issued by defendant Union Labor Life Insurance Company and administered by defendant I.E. Shaffer & Co ("Shaffer"). These claims were paid periodically by Union Labor via Shaffer.

Approximately two years after the plaintiff was admitted to the hospital Shaffer requested that Union Labor review the file. Several problems discovered in connection with the claims resulted in Union Labor's suspension of payments to the hospital. These problems included overpayment of claims, inaccurate diagnosis of the plaintiff's condition, and lack of justification for such a long period of hospitalization.

On the basis of a reviewing physician's opinion that hospitalization of Ms. Rolnik had only been medically necessary for the first six months, Union Labor refused to continue payments and so informed Shaffer and the hospital. The plaintiff was eventually discharged for reasons unrelated to the payment of bills.

In their complaint, the plaintiffs purport to state causes of action against Union Labor, Shaffer, and Sheppard-Pratt Hospital for misrepresentation, fraud, breach of contract and declaratory judgment.

ARGUMENT

THE PLAINTIFFS' COMMON LAW CLAIMS ARE PRE-EMPTED BY ERISA

In 1974, the United States Congress enacted the Employee Retirement Income Security Act ("ERISA"), in order to establish "minimum standards...assuring the equitable character of [employee fringe benefit plans] and their financial soundness." 29 U.S.C. § 1001(a). ERISA defined "employee benefit plan" broadly, including both pension plans, 29 U.S.C. § 1002(2)(A), and "welfare" plans. 29 U.S.C. § 1002(1). A welfare plan includes "any plan, fund or program...established or maintained by an employer or employee organization...for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise,...benefits in the event of sickness, accident, disability, death or unemployment...." 29 U.S.C. § 1002(1). There is no dispute here that Mr. Rolnik's insurance was provided by his union as part of his fringe benefits. See copy of the insurance policy (attached as exhibit A) and deposition of Glenn Shaffer at pages 7-9 (attached as exhibit B). Accordingly, the policy falls within ERISA's ambit. See Donovan v. Dillingham, 688 F.2d 1367, 1374 (11th Cir. 1982).

The provisions of ERISA supersede all state laws that "relate" to any employee benefit plan. 29 U.S.C. § 1144. The "pre-emption provisions of ERISA are deliberately expansive,"

reserving to the federal government "the sole power to regulate the field of employee benefit plans." Pilot Life Ins. Co. v. Dedeaux, 481 U.S. 41, 46 (1987). Moreover, ERISA defines "state law" as including "all laws, decisions, rules, regulations or other State action having the effect of law." 29 U.S.C. § 1144(c)(1). ERISA's pre-emption clause is not limited to "state laws specifically designed to affect employee benefit plans." Shaw v. Delta Air Lines, 463 U.S. 85, 98 (1983). Thus, common law causes of action based on an allegedly improper processing of a claim for benefits under an employee benefit plan are pre-empted by ERISA. Pilot Life, supra.

The Pilot Life case is illuminating on this point, as it is very similar factually to the case here. Dedeaux, the plaintiff in Pilot Life, had been injured in a job-related accident in 1975. His employer had purchased a group insurance policy from Pilot Life which provided long-term disability benefits. Pilot Life was solely responsible for determining who would receive disability benefits. Although Pilot Life initially provided Dedeaux with benefits, it terminated the benefits after two years. For the next three years, Pilot Life terminated and reinstated Dedeaux's benefits several times. Finally, in 1980, Dedeaux brought suit against Pilot Life, alleging claims under Mississippi law for tortious breach of contract, breach of fiduciary duties and fraud in the

inducement. Dedeaux sought damages for failure to provide benefits under the insurance policy, damages for mental and emotional distress, and punitive damages. Pilot Life moved for summary judgment, contending that the plaintiff's claims were pre-empted by ERISA.

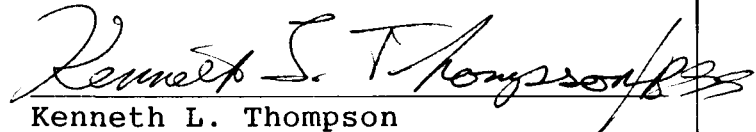
The Supreme Court, noting that ERISA set forth a comprehensive civil enforcement scheme, 29 U.S.C. § 1132, held that Dedeaux's state common law claims were pre-empted. "The policy choices reflected in the inclusion of certain remedies and the exclusion of others under the federal scheme would be completely undermined if ERISA-plan participants and beneficiaries were free to obtain remedies [such as punitive damages] that Congress rejected in ERISA." *Id.* at 54. The Court further held that the clear intent of Congress in enacting the civil enforcement provisions of ERISA was "that all suits brought by beneficiaries or participants asserting improper processing of claims under ERISA-regulated plans be treated as federal questions governed by [29 U.S.C. § 1132(a)]." *Id.* at 56. The Supreme Court reversed the intermediate court and affirmed the trial court's grant of summary judgment in Pilot Life's favor.

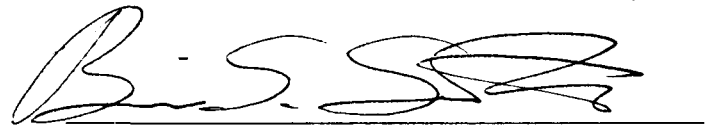
As in Pilot Life, the plaintiffs' state common law causes of action in this case are pre-empted by ERISA. The plaintiffs, therefore, have no cause of action that this Court can adjudicate.

CONCLUSION

There is no genuine dispute of material fact that Union Labor's policy was part of an ERISA-regulated plan. Accordingly, the plaintiffs' common law claims are pre-empted by ERISA. The plaintiffs' amended complaint is improperly brought, and cannot be maintained. Union Labor is entitled to summary judgment in its favor.

Respectfully submitted,


Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorneys for The Union Labor
Life Insurance Company

JOSEPH ROLNIK, et al.
Plaintiffs
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants

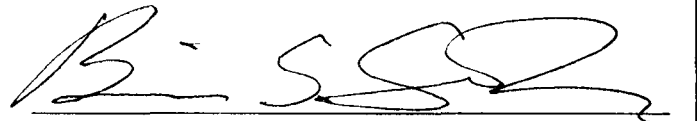
* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

REQUEST FOR HEARING

Defendant, The Union Labor Life Insurance Company,
respectfully requests a hearing on its Motion for Summary
Judgment.


Kenneth L. Thompson


Brian S. Smith

Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Attorneys for The Union Labor
Life Insurance Company

JOSEPH ROLNIK, et al.
Plaintiffs
v.
THE UNION LABOR LIFE
INSURANCE COMPANY, et al.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No: 87313071/CL73531
*

* * * * *

ORDER

Upon consideration of defendant Union Labor Life Insurance Company's Motion for Summary Judgment,

It is this ____ day of _____, 1989, ORDERED that:

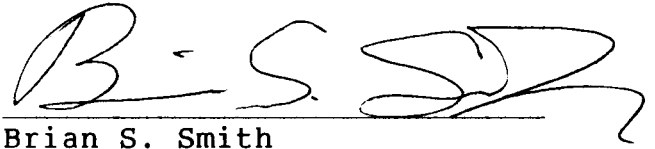
1. Said motion be and the same hereby is GRANTED; and
2. Judgment be and the same hereby is entered in favor of defendant The Union Labor Life Insurance Company on all claims herein; and

3. The Clerk of the Court shall mail copies of this Order to counsel for all parties.

Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 10th day of July, 1989, I mailed a copy of Defendant's Motion for Summary Judgment, Statement of Grounds and Authorities in Support thereof, Request for Hearing, and proposed Order to Mark T. Mixter, Esquire, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, Maryland 21202, Thomas Trezise, Esquire, Semmes, Bowen & Semmes, 401 Washington Avenue, Post Office Box 6705, Towson, Maryland 21285; and to Kristine A. Crosswhite, Esquire, Miles & Stockbridge; 10 Light Street, Baltimore, Maryland 21202.



Brian S. Smith

1. E. Shaffer files



Group Policy Number C-2023

The UNION LABOR Life Insurance Company

(Hereinafter called the Company)
Incorporated Under the Laws of the State of Maryland
NEW YORK, N. Y.

IN CONSIDERATION

of the application for this Policy made by
CARPENTERS OF HUDSON COUNTY WELFARE FUND, NEW JERSEY

(Hereinafter called the Policyholder)

a copy of which application is attached hereto and made a part hereof, and in consideration of the payment by the Policyholder of the initial premium and of the payment hereafter by the Policyholder, during the continuance of this Policy, of all premiums when they fall due as hereinafter provided,

HEREBY AGREES

to make the payments herein provided, with respect to the several Persons insured hereunder, in accordance with and subject to the provisions of this Policy.

The Provisions hereinafter contained are part of this Group Policy as fully as if recited over the signatures hereto affixed.

IN WITNESS WHEREOF, The Union Labor Life Insurance Company has caused this Policy to be executed this FIFTEENTH day of AUGUST, 1980 to take effect as of the FIRST day of APRIL, 1958 which last date is the date of issue hereof.

Richard F. Mahb.
Secretary

Daniel E. Shueywan
PRESIDENT

Countersigned by *Robert Krupp*
Registrar

- GROUP TERM INSURANCE POLICY PROVIDING, UNTIL TERMINATION
- LOSS OF TIME (WEEKLY INDEMNITY)
- SURGICAL EXPENSE
- SECOND SURGICAL OPINION EXPENSE
- MAJOR MEDICAL EXPENSE
- VISION EXPENSE
- HEARING CARE EXPENSE

EFFECTIVE APRIL 1, 1980 THIS POLICY REPLACES AND SUPERSEDES ALL POLICIES OF THE SAME NUMBER ISSUED BY THIS COMPANY.

NON-CONTRIBUTORY
Annual Distribution of Divisible Surplus

Application is Hereby Made to
THE UNION LABOR LIFE INSURANCE COMPANY

By CARPENTERS OF HUDSON COUNTY WELFARE FUND, NEW JERSEY
Whose address is c/o I.E. SHAFFER & COMPANY; 31 AIRPARK RD., CN-62-PRINCETON, NEW JERSEY 0854
For Group Policy No. C-2023

Said Group Policy is hereby approved and the terms thereof are hereby accepted.

This application is executed in duplicate, one counterpart being attached to said Group Policy and the other being returned to The Union Labor Life Insurance Company.

It is agreed that this application supersedes any previous application for the said Group Policy.

Dated at PRINCETON, NEW JERSEY this 20th day of October, 1950

CARPENTERS OF HUDSON COUNTY WELFARE FUND,
NEW JERSEY

Name of Policyholder

By Edward B. Jewell

[Signature]
Witness

Agent _____
(To be signed by Licensed Resident Agent where required by law)

Title Trustee

This Copy is to Remain Attached to the Policy

G-1611.2A



Application is Hereby Made to
THE UNION LABOR LIFE INSURANCE COMPANY

By CARPENTERS OF HUDSON COUNTY WELFARE FUND, NEW JERSEY
Whose address is c/o I.E. SHAFFER & COMPANY; 31 AIRPARK RD., CN-62-PRINCETON, NEW JERSEY 08540
For Group Policy No. C-2023

Said Group Policy is hereby approved and the terms thereof are hereby accepted.

This application is executed in duplicate, one counterpart being attached to said Group Policy and the other being returned to The Union Labor Life Insurance Company.

It is agreed that this application supersedes any previous application for the said Group Policy.

Dated at PRINCETON, NEW JERSEY this 20th day of October, 1950

CARPENTERS OF HUDSON COUNTY WELFARE FUND,
NEW JERSEY

Name of Policyholder

By Edward B. Jewell

[Signature]
Witness

Agent _____
(To be signed by Licensed Resident Agent where required by law)

Title Trustee

This Copy is to Be Detached and Returned to The Union Labor Life Insurance Company

G-1611.2A



COPY OF POLICYHOLDER'S APPLICATION ATTACHED HERETO

DEFINITIONS

For the purpose of this Policy:

The term "complications of pregnancy" shall mean:

- 1) Conditions requiring hospital stays, when the pregnancy is not terminated and the diagnosis is distinct from pregnancy but is adversely affected by pregnancy or caused by pregnancy.
- 2) Non-elective caesarean section, ectopic pregnancy which is terminated, and spontaneous termination of pregnancy which occurs during a period of gestation in which a viable birth is not possible.

DEFINITIONS

For the purpose of this Policy:

1. The term "physician" shall mean a duly licensed doctor of medicine authorized to perform a particular medical or surgical service within the lawful scope of his practice, and shall also include any other health care provider or allied practitioner as mandated by state law.

2. The term "hospital" shall mean an institution which:
 - A. is primarily engaged in providing, by or under the supervision of physicians, to in-patients (1) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (2) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and
 - B. maintains clinical records on all patients, and
 - C. has bylaws in effect with respect to its staff of physicians, and
 - D. has a requirement that every patient be under the care of a physician, and
 - E. provides 24 hour nursing service rendered or supervised by a registered professional nurse, and
 - F. has in effect a hospital utilization review plan, and
 - G. is licensed pursuant to any state or agency of the state responsible for licensing hospitals, and
 - H. has accreditation under one of the programs of the Joint Commission on Accreditation of hospitals.

Unless specifically provided, the term "hospital" shall not include any institution, or part thereof, which is used principally as a rest facility, nursing facility, convalescent facility or facility for the aged or for the care and treatment of drug addicts or alcoholics, except as mandated by State Law, or any institution that makes a charge that the insured is not required to pay.

GENERAL PROVISIONS

CONTRACT. This Policy, together with the Policyholder's Application therefor, a copy of which is attached hereto, and the individual applications, if any, of the Persons insured shall constitute the entire contract between the parties. All statements made by the Policyholder or by the individuals shall be deemed representations and not warranties, and no statement shall void this Policy or be used in defense of a claim hereunder unless contained in a written application signed by the applicant and unless a copy of the Application of the Policyholder is attached hereto.

AUTHORITY OF AGENTS. Agents are not authorized to modify or, in event of lapse, to reinstate this Policy or to extend the time for the payment of any premium or installment thereof. Only the President, a Vice-President, Actuary, Assistant Actuary, Secretary or Assistant Secretary of the Company has power to change, modify or waive the provisions of this Policy, and then only in writing.

CERTIFICATES. The Company will issue to the Policyholder for delivery to each Person who is insured under this Policy, an individual Certificate setting forth a statement as to the insurance protection to which such Person is entitled under the terms hereof, to whom benefits are payable and shall summarize the provisions of this Policy affecting the Person insured.

CLAIMS. Written notice of claim hereunder must be given to the Office of the Policyholder or the Company at its Head Office in New York, N.Y.

within ninety days after the date of the event. Failure to give notice within the time required by the Policy shall not invalidate or reduce any claim if it shall be shown not to have been reasonably possible to give such notice within the required time and that notice was given as soon as was reasonably possible.

Upon receipt of such notice, forms will be furnished for filing proof of claim. If such forms are not furnished within fifteen days after the receipt of notice, such individual shall be deemed to have complied with the requirements of the Policy as to proof of claim upon submitting within ninety days after the date of the loss for which claim is made, written proof covering the occurrence, character and extent of the loss for which claim is made.

Written proof of the occurrence and loss herein referred to must be furnished to the Office of the Policyholder or the Company at its Head Office in New York, N.Y.

on the Company's forms within ninety days after the date of the loss for which claim is made. Failure to furnish such proof within the time required by the Policy shall not invalidate or reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof within the required time and that proof was given as soon as was reasonably possible.

ASSIGNMENT. No assignment of insurance under this Policy shall be valid.

LEGAL PROCEEDINGS. No action at law or in equity shall be brought to recover under this Policy prior to the expiration of sixty days after proof of claim has been furnished in accordance with the requirements of this Policy, nor shall any such action be brought at all unless commenced within three years from the expiration of the time within which proof of claim is required by the provisions hereof. If any time limitation of this Policy with respect to giving notice of claim, or furnishing proof of loss, or bringing of an action at law or in equity is less than that permitted by the law of the state in which the claimant resides at the time his insurance is effective, such limitation is hereby extended to agree with the minimum period permitted by such law.

MISSTATEMENT OF AGE. If the age of an individual insured hereunder has been misstated, an equitable adjustment shall be made in the premiums, or, if the amount of insurance depends on age, in the amount of insurance. In the latter case, the amount payable under this Policy shall be the full amount of insurance to which the individual is entitled at his true age, but the Policyholder shall pay to the Company the premiums called for at the true age.

FACILITY OF PAYMENT. If an Insured Person is, in the opinion of the Company, legally incapable of giving valid receipt for any payment due him, the Company reserves the right, in the absence of the appointment of a legal guardian, to make payment to the party, who, in its opinion, is entitled to such payment. Payment so made shall discharge the Company's obligation with respect to the amount so paid.

If a Beneficiary is designated, the consent of the Beneficiary shall not be required to change the Beneficiary, or to make any other changes in the Policy or Certificate, except as may be specifically provided by the Policy. If any Beneficiary shall die before the Insured, the interest of such Beneficiary shall thereupon automatically terminate. If there is no Beneficiary designated by the Insured or surviving at the death of the Insured, payment will be made in a single sum to the first surviving class of the following classes of successive preference Beneficiaries: the Insured's (a) widow or widower; (b) surviving children; (c) surviving parents; (d) surviving brothers and sisters; (e) executors or administrators.

EXAMINATIONS. The Company shall have the right and opportunity through its medical representative to examine any Insured Person while living making claim when and so often as it may reasonably require during the pendency of claim hereunder.

GENERAL PROVISIONS (Continued)

SEE RIDER ATTACHED #2

DIVIDENDS. This Policy shall participate annually in the distribution of the divisible surplus as ascertained and apportioned by the Company at the end of each Policy Year, provided this Policy shall have been continued in force by the payment of all premiums hereunder to the end of the Policy year, but the financial experience under this Policy shall be combined with financial experience of all other group Policies issued to the Policyholder by the Company for the purpose of determining the divisible surplus hereunder. All dividends shall be applied toward the payment of premiums hereon, or may, at the request of the Policyholder, be paid to the Policyholder in cash. If the Persons insured hereunder contribute to the cost of the insurance and if the aggregate of any dividends should be in excess of the Policyholder's share of the aggregate cost, such excess shall be applied by the Policyholder for the sole benefit of the Persons insured. Payment of any dividend to the Policyholder shall completely discharge the liability of the Company with respect to the dividend so paid.

REPORTS FROM THE POLICYHOLDER. The Policyholder shall furnish the information necessary to administer this Policy whenever required by the Company. At any reasonable time the Company shall have the right to inspect any records of the Policyholder or in the possession of the Policyholder which relate to this Policy.

Clerical error on the part of the Policyholder in keeping the records in connection with this insurance shall not invalidate insurance otherwise in force, nor continue insurance otherwise terminated. Upon discovery of such an error an equitable adjustment shall be made in premiums.

PAYMENT OF PREMIUMS. All premiums are payable in advance at the Head Office of the Company in New York, N. Y., or to any agent or cashier of the Company in exchange for a receipt signed by the President or Secretary of the Company and countersigned by said agent or cashier. Premium payments with respect to the insurance hereunder of any such Person shall be continued during the full period of such insurance, including any periods for which benefits are payable while such Person is insured hereunder.

GRACE PERIOD. A grace period of 31 days will be granted the Policyholder for the payment of each premium falling due after the first premium, during which grace period this Policy shall continue in force. However, the Policyholder shall be liable to the Company for the payment of all premiums due for the period the Policy continues in force.

TERMINATION AND CHANGE OF POLICY. Except as provided in the provision entitled "Grace Period," this Policy shall terminate upon default in the payment of any premium hereunder. The Company may decline to renew this Policy as of any Policy anniversary by giving written notice to the Policyholder at least thirty days prior to such Policy anniversary (subject, however, to prior termination by default), provided, however, that if on any premium due date fewer than 100

SEE RIDER ATTACHED #2

Persons are insured hereunder, the Company may terminate this Policy, such termination to be effective as of the premium due date next succeeding the expiration of the thirty days following the mailing by the Company of the written notice of termination to the Policyholder unless this Policy shall sooner terminate by default. The Company reserves the right to change from time to time on any Policy anniversary the rate basis for determining premiums for the insurance hereunder.

On any premium due date the Policyholder may terminate this Policy, or, subject to the Company's approval, may modify, amend or change the provisions, terms and conditions of this Policy. The Company's written consent shall be required to make any such modification, amendment or change, but the consent of any insured Person or of any other Person referred to in this Policy shall not be required to effect such termination or any modification, amendment or change of this Policy.

TIME OF BENEFIT PAYMENT. Benefits payable under this Policy for any loss other than loss for which this Policy provides any periodic payment will be paid not more than sixty days after receipt of proof. Subject to due proof of loss, all accrued benefits payable for loss for which this Policy provides periodic payment will be paid not later than at the expiration of each period of thirty days during the continuance of the period for which the Company is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

PAYMENT OF CLAIMS. All claims shall be paid by the Policyholder or its designated Administrator. However, any and all claim forms, proofs of claim, physicians' or hospital statements or any other document necessary for the satisfaction of any claims received or accumulated by the Policyholder or its designated Administrator in the payment of claims hereunder shall be the sole and exclusive property of the Company and shall be immediately surrendered by the Policyholder or its designated Administrator to the Company upon termination of this Policy or upon any change in the provisions of this Policy which results in the discontinuance or termination of any benefit or benefits provided hereunder.

SEE RIDER ATTACHED #2

TERMINATION OF PERSON'S INSURANCE

Except as provided in the Continuance of Insurance provision, a Person's insurance will terminate upon the occurrence of the first of the following events:

1. the termination of the Policy,
2. the termination of the Person's membership in the classes eligible for insurance hereunder,
3. the modification of the Policy to terminate insurance on the class of persons to which he belongs,
4. the failure of the Person to make any contribution, if required, toward the insurance hereunder,
5. the cessation of premium payments with respect to the Person,
6. the modification of the Policy to terminate one or more forms of insurance enumerated herein under the "Schedule of Insurance."
7. in accordance with the Eligibility Provisions set forth on policy page GC-2600-018 entitled PERSONS TO BE INSURED.

TERMINATION OF DEPENDENTS' INSURANCE

The insurance of a Dependent of an insured Person will terminate upon the occurrence of the first of the following events:

1. the termination of the Person's insurance,
2. the modification of the Policy to terminate Dependents' insurance,
3. the termination of his status as a Dependent as defined in the Dependents To Be Insured provision,
4. the modification of the Policy to terminate one or more forms of Dependents' insurance enumerated herein under the "Schedule of Insurance."

EXCEPTION:

If termination of a Person's eligibility for the insurance is due to his death, the eligibility for the insurance of such Person's eligible dependents shall continue until the earliest occurrence of the following dates:

- 1) The last day of a period of six months following such Person's death or to the extent his Reserve Hours are sufficient to maintain his eligibility, whichever is greater.
- 2) The date such Person's spouse remarries.
- 3) The date such dependent becomes eligible for similar benefits under other group insurance coverage.
- 4) The date such dependent no longer maintains his status as an eligible dependent, defined on policy page GC-2600-019 entitled DEPENDENTS TO BE INSURED.

SCHEDULE OF INSURANCE

THE AMOUNT OF INSURANCE OF ANY INSURED PERSON AND HIS INSURED DEPENDENTS SHALL BE BASED UPON THE FOLLOWING:

<u>FORMS OF INSURANCE</u>	<u>AMOUNT OF INSURANCE</u>	
	<u>PERSONS</u>	<u>DEPENDENTS</u>
*LOSS OF TIME INSURANCE		
Weekly Indemnity	\$ 60.00	NONE
Waiting Period for Disability due to		
Accident		NONE
Sickness		7 DAYS
Maximum Period of Benefits	13 WEEKS	----
SURGICAL EXPENSE INSURANCE		
Maximum Surgical Expense Insurance	\$ 800.00	\$ 800.00
Obstetrical Procedures:		
Normal Delivery of child or children	\$ 320.00	\$ 320.00
Caesarean Section or Ectopic Pregnancy	\$ 640.00	\$ 640.00
Miscarriage	\$ 160.00	\$ 160.00
SECOND SURGICAL OPINION EXPENSE INSURANCE		
Maximum Amount (Per Consultation)	\$ 100.00	\$ 100.00
MAJOR MEDICAL EXPENSE INSURANCE		
Maximum Payment (Lifetime)	\$100,000.00	\$100,000.00
VISION EXPENSE INSURANCE		
Maximum Amount	AS PER SCHEDULE	
HEARING CARE EXPENSE INSURANCE		
Deductible Amount	\$ 50.00	\$ 50.00
Coinsurance Percentage	80%	80%
Maximum Amount (Lifetime)	\$ 400.00	\$ 400.00

NO MATERNITY BENEFITS UNDER THIS POLICY SHALL BE PAYABLE WITH RESPECT TO DEPENDENT CHILDREN, EXCEPT COMPLICATIONS OF PREGNANCY AS DEFINED HEREIN OR AS OTHERWISE SPECIFICALLY PROVIDED.

*APPLICABLE TO CLASS 1 ONLY.

PERSONS TO BE INSURED

CLASSES OF PERSONS ELIGIBLE: The following Classes of Persons are eligible for the insurance:

Class 1 - All active employees who, on April 1 of any calendar year, are employed by a Participating Employer within the Hudson County jurisdiction.

Class 2 - All retired employees who retire on or after April 1, 1980 and who

- 1) have attained age 65 or are totally disabled, and
- 2) have been credited with at least 25 years of credited service under the Hudson County Carpenters Pension Fund, and
- 3) are eligible in the Welfare Fund under Class 1 on the day immediately preceding the effective date of such Person's monthly pension benefit from the Hudson County Carpenters Pension Fund, or
- 4) who retire prior to their attainment of age 65, who would otherwise be eligible as retired employees, provided the Person makes the Employee Contributions to the Welfare Fund until his attainment of age 65, after which no further contributions are required.

WHEN A PERSON BECOMES ELIGIBLE:

1. Initial Eligibility:

Each Person in an eligible class on the effective date of this Policy April 1, 1980 shall become eligible for the insurance on that date, provided such Person was eligible for the insurance on March 31, 1980 and would have continued eligible under the previous Group Policy issued by this Company and, with respect to Class 1 only, such Person has been credited with at least 300 hours of service with a Participating Employer during the calendar year of 1979.

2. Subsequent Eligibility:

Each Person in an eligible class on the effective date of this Policy April 1, 1980 but who was not eligible in accordance with Paragraph 1. above, and each Person who subsequently enters an eligible class shall become eligible for the insurance:

- A. with respect to Class 1, on the first day of the second calendar month of the calendar quarter which most immediately follows an Employment Period of not more than 12 consecutive months during which such Person has been credited with at least 1200 hours of service with a Participating Employer.

<u>Preceding Employment Period</u>	<u>Eligibility Date</u>
January 1 to December 31	February 1
April 1 to March 31	May 1
July 1 to June 30	August 1
October 1 to September 30	November 1

- B. with respect to Class 2, on the first day of the month which coincides with the effective date of the monthly pension benefit such Person receives from the Hudson County Carpenters Pension Fund.

CONTINUATION OF ELIGIBILITY:

1. Once eligible for the insurance under Class 1, a Person shall maintain his eligibility for the insurance provided he is credited with at least 300 hours of service with a Participating Employer each calendar quarter.
2. Once eligible for the insurance under Class 2, a Person shall remain eligible for the insurance for the remainder of such Person's lifetime.

A.

PERSONS TO BE INSURED

(Continued)

RESERVE OF HOURS:

"Reserve of hours" means the excess of a Person's hours of service over the number of hours required to become eligible for the insurance and to remain eligible for the insurance. A Person's reserve of hours shall not exceed 900 hours.

If a Person has not been credited with 300 hours of service during a calendar quarter, his reserve of hours will be applied to the extent necessary to maintain his eligibility for the insurance.

ELIGIBILITY DURING PERIODS OF DISABILITY:

After having met the eligibility requirements herein, if a Person in Class 1 is unable to work because of an occupational or non-occupational disability, credit will be granted at the rate of 25 hours for each week of disability, up to a maximum of 600 hours of credit for any one period of disability.

TERMINATION OF ELIGIBILITY:

A Person's eligibility for the insurance under Class 1 shall terminate on the last day of the second calendar month which follows that calendar quarter during which such Person failed to receive credit for 300 hours of service; except that in the case where a Person became eligible on April 1, 1980, such Person's eligibility shall continue at least until June 30, 1980.

<u>Preceding Employment Period</u>	<u>Termination Date</u>
October 1 to December 31	February 28
January 1 to March 31	May 31
April 1 to June 30	August 31
July 1 to September 30	November 30

REINSTATEMENT OF ELIGIBILITY:

Following the termination of a Person's eligibility for the insurance under Class 1, a Person may be reinstated on the first day of the second calendar month following that calendar quarter during which he has been credited with at least 300 hours of service. This reinstatement provision will only apply if such Person is credited with at least 300 hours of service during a calendar quarter which ends within 10 months from his most recent date of termination.

Should a Person not satisfy the above reinstatement provision, such Person shall be subject to the rules in accordance with Paragraph 2. under the section WHEN A PERSON BECOMES ELIGIBLE above.

EMPLOYEE CONTRIBUTIONS:

If, after having satisfied these eligibility provisions and a Person is not credited with sufficient hours of service to maintain his eligibility, he may make direct Employee Contributions to the Welfare Fund on his own behalf to maintain his eligibility for the insurance, provided that:

- 1) Such Person obtains a statement, signed by a Business Agent of the Hudson County Carpenters District Council, certifying that he was available for work within and under the jurisdiction of the District Council during the immediate preceding calendar quarter, and during which sufficient employer contributions were not received on his behalf,

or

Such Person obtains a statement, signed by his attending physician, certifying that he was disabled and unable to work due to illness or injury during the immediate preceding calendar quarter, and during which sufficient employer contributions were not received on his behalf,

and

B.

PERSONS TO BE INSURED

(Continued)

- 2) such Person forwards the above certification along with a check or money order, in the amount of the required Employee Contribution, to the Welfare Fund Office no later than 31 days after his eligibility would have otherwise terminated.

The amount of the required Employee Contributions will be determined by the Board of Trustees of the Hudson County Carpenters Welfare Fund on a periodic basis. Beginning April 1, 1980, the required Employee Contribution shall be \$300.00 per quarter.

Those contributory hours received on a Person's behalf from his employers, which were insufficient to maintain his eligibility, will be credited to such Person's reserve of hours. These hours will later be applied to maintain the Person's eligibility during subsequent quarters.

Self-Contributions on a Person's own behalf shall not exceed a period of four consecutive quarters. Upon termination of such Person's eligibility in the Welfare Fund, he may exercise his normal conversion privileges as offered by this Company.

PARTICIPATING EMPLOYERS

ELIGIBILITY: Except as provided below, an employer will become a Participating Employer as of the date he enters into a Contractual Agreement with the Carpenters District Council of Hudson County, New Jersey to make certain contributions to the Trustees of the Carpenters of Hudson County Welfare Fund, New Jersey in accordance with said agreement.

For the purpose of this Policy the Carpenters District Council of Hudson County, New Jersey and the Trustees of the Carpenters of Hudson County Welfare Fund, New Jersey shall also be considered as Participating Employers.

RECORDS: The Policyholder shall maintain a record of the Participating Employers included for coverage under this Policy, listing the date each such Employer is included and, in the case of an Employer who ceases to be included, the date of such termination.

C.

DEPENDENTS TO BE INSURED

DEFINITIONS: As used in the Policy,

- (1) "Eligible Dependent" shall mean (a) a Person's lawful spouse and (b) each unmarried child who has not attained his twenty-third birthday, provided that, in the case of a child who has attained his 19th birthday, he (i) is dependent upon his parents for support and maintenance, and (ii) is attending an accredited school or college as a full-time student. However, dependent children whose insurance would otherwise terminate solely due to the attainment of the limiting age shall continue to be considered eligible dependents while they are incapable of self-sustaining employment by reason of mental retardation or physical handicap, provided written evidence of such incapability is furnished to the Company, with respect to any such child, by the later of (a) the thirty-first day after attainment of such age or (b) the thirty-first day after notification of the eligibility of such dependent child has been received by the Person. Proof of the continued existence of such incapability shall be furnished to the Company from time to time at its request.

Those dependents who are eligible for benefits as eligible Persons under the Policy shall not be considered eligible dependents hereunder. "Child" includes stepchild, foster child and adopted child, provided such child is dependent upon the insured Person for support and maintenance.

- (2) "Person's Insurance" refers to a Person's insurance with respect to himself.
- (3) "Dependents' Insurance" refers to a Person's insurance with respect to his dependents.

EFFECTIVE DATE: Except as provided below, each Person who has an eligible dependent on the day he becomes insured for Person's Insurance shall become insured for Dependents' Insurance on that day, and each Person who acquires an eligible dependent after the day the Person becomes insured for Person's Insurance shall become insured for Dependents' Insurance with respect to such dependent on the day his dependent acquires the status of an eligible dependent.

EXCEPTIONS: An eligible dependent who is in a hospital on the date the dependent would otherwise become an insured dependent will not be insured for any Dependents' Insurance under the Policy until such dependent has been finally discharged by the hospital. However, if a newborn dependent child incurs charges over and above the normal cost of nursery charges for services because of disease, injury, congenital abnormality or hereditary complications, insurance begins from birth.

CONTINUANCE OF INSURANCE

For the purpose of the following benefits, a Person's insurance under these provisions will continue beyond the day it would otherwise terminate in accordance with the termination of Person's Insurance provision:

A Person's Insurance and Dependents' Insurance under the Policy will continue with respect to a Person or any insured Dependent after termination of such Person's or Dependent's insurance if (a) the insured Person or insured Dependent was totally disabled on the date of such termination, and (b) the insured Person or insured Dependent incurs an expense directly resulting from that particular disability which would have entitled him to benefits prior to such termination. If insurance is continued under this provision, benefits will be paid subject to the applicable Maximum amount and applicable insurance provisions for which such Person or Dependent was insured at the time of termination of his insurance as follows:

1. **Surgical Benefits for an operation undergone within three months after such termination.**
2. **Major Medical Benefits for charges incurred within twelve months after such termination.**

The words totally disabled, as used herein, mean with respect to a Person, that the Person is prevented, solely because of disease or accidental bodily injury, from engaging in his regular or customary occupation, and with respect to a Dependent, that the Dependent is prevented, solely because of disease or accidental bodily injury, from engaging in substantially all of the normal activities of a person of like age and sex and in good health.

PREMIUMS

The first premium is due on the date of issue of this Policy.

Subsequent premiums are due On the first day of each calendar month.

The initial premium rates shall be as follows:

<u>FORMS OF INSURANCE</u>	<u>MONTHLY RATES - APRIL 1, 1980</u>	
	<u>PERSONS PREMIUM</u>	<u>DEPENDENTS PREMIUM</u>
LOSS OF TIME (WEEKLY INDEMNITY)	\$ 2.34	-----
SURGICAL EXPENSE INSURANCE	\$ 2.57	\$ 6.67
SECOND SURGICAL OPINION EXPENSE INSURANCE	\$.03	\$.05
MAJOR MEDICAL EXPENSE INSURANCE	\$ 8.37	\$ 12.00
VISION EXPENSE INSURANCE	\$.61	\$ 1.06
HEARING CARE EXPENSE INSURANCE	\$.22	\$.20

	<u>MONTHLY RATES - MAY 1, 1980</u>	
	<u>PERSONS PREMIUM</u>	<u>DEPENDENTS PREMIUM</u>
LOSS OF TIME (WEEKLY INDEMNITY)	\$ 2.67	-----
SURGICAL EXPENSE INSURANCE	\$ 3.06	\$ 6.67
SECOND SURGICAL OPINION EXPENSE INSURANCE	\$.03	\$.05
MAJOR MEDICAL EXPENSE INSURANCE	\$ 12.10	\$ 27.63
VISION EXPENSE INSURANCE	\$.56	\$ 1.06
HEARING CARE EXPENSE INSURANCE	\$.22	\$.20

The Company reserves the right to change, on any Policy anniversary date, the premium rates stated herein upon thirty-one days' notice to the Policyholder.

The premium due on the date of issue of this Policy and on each due date will be determined by applying the premium rate then in effect for each form of insurance to the amount of insurance then in force; however, any other method may be used which produces approximately the same total amount and which is mutually agreeable to the Policyholder and the Company.

LOSS OF TIME PROVISION

INSURING CLAUSE. Upon receipt of due proof that any Person, while insured under this provision, shall have become wholly and continuously disabled as a result of (a) non-occupational accidental bodily injuries or (b) a sickness not due to occupational disease, and thereby be prevented from performing any and every duty pertaining to his employment, the Company will, subject to the limitations and provisions of this Policy, pay to such Person the applicable Weekly Indemnity Benefits shown in the Schedule of Insurance. Weekly Indemnity Benefits will be payable for the portion of the period of disability subsequent to the Waiting Period During Disability shown in the Schedule of Insurance, but for not longer than the Maximum Period of Benefits During Disability set forth in the Schedule of Insurance.

Successive periods of disability separated by less than two weeks of continuous active employment shall be considered as one continuous period of disability unless they arise from different and unrelated causes, in which case return to active work for at least one day is required.

LIMITATIONS. No benefits shall be payable under this Loss of Time provision

- (a) for any period of disability during which such Person is not under the direct care of a physician,
- (b) for disability due to accidental bodily injuries arising out of and in the course of such Person's employment,
- (c) for disability due to occupational disease; for the purpose of this Policy the term "occupational disease" shall mean a disease for which the Person with regard to whom a claim is submitted, is entitled to benefits under the applicable Workmen's Compensation Law, Occupational Disease Law, or similar legislation.

PAYMENT OF BENEFITS. Upon compliance with the Claims provision, accrued benefits will be paid bi-monthly during the period of disability, and any balance thereof will be paid at the termination of the period for which they are payable.

SURGICAL EXPENSE PROVISIONS

SURGICAL EXPENSE BENEFITS. Upon receipt of due proof that any Person or Dependent of such Person, while insured under this provision, shall undergo an operation enumerated in the Schedule of Operations, performed by a legally qualified physician or surgeon and as a result of a non-occupational bodily injury or sickness not due to occupational disease as defined in Limitations, the Company will subject to the limitations and provisions of this Policy, pay to such Person the surgical fees incurred for such operation, such payment in no event to exceed the amount provided in the Schedule of Operations for such operation except that:

- (1) if more than one operation is performed through the same abdominal incision, the total payment for all such operations shall not exceed the maximum payment specified in the Schedule of Operations for that one of such operations for which the largest amount is payable;
- (2) if more than one operation is performed on the anus or rectum, or both, (except for cancer) at any one time, the total payment for all such operations shall not exceed one and one-half times the maximum payment specified in the Schedule of Operations for that one of such operations for which the largest amount is payable;
- (3) the total payment for all operations performed during one continuous period of disability shall not exceed the Maximum Surgical Expense Insurance applicable to such Person or Dependent as set forth in the Schedule of Insurance.

Successive operations shall be considered as having been performed during one continuous period of disability unless (1) the subsequent operation is due to a bodily injury or disease entirely unrelated to the accident or disease which necessitated the previous operation or (2) complete recovery from the accidental bodily injury or disease which caused the previous operation has taken place or (3) with respect to a Person only, the Person has returned to active full-time work for at least one full working day before the subsequent operation is performed.

LIMITATIONS. No payment shall be made under the paragraph entitled Surgical Expense Benefits:

- A. for any professional fees whatsoever other than the fees of the physician or surgeon for performing the operation,
- B. for expenses incurred for dental work or treatment,
- C. for surgical fees incurred for any operation
 - (a) due to sickness resulting from occupational disease; for the purpose of this Policy the term "occupational disease" shall mean a disease for which such Person or Dependent with regard to whom a claim is submitted, is entitled to benefits under the applicable Workmen's Compensation Law, Occupational Disease Law, or similar legislation, or
 - (b) due to accidental bodily injuries arising out of and in the course of such Person's or Dependent's employment or
 - (c) that the insured individual is not required to pay,
- D. for expenses incurred for elective abortion, except those charges directly resulting from complications of such abortion or for an abortion where the life of the mother would be endangered if the fetus was carried to term.

PAYMENT OF BENEFITS. Upon compliance with the Claims provision, benefits will be paid in one lump sum.

SCHEDULE OF OPERATIONS

PERCENTAGE OF SCHEDULE APPLICABLE. THE MAXIMUM PAYMENT FOR ANY OPERATION WITH RESPECT TO AN INSURED PERSON OR DEPENDENT SHALL BE 400% OF THE AMOUNT STATED BELOW:

	Amount of Payment		Amount of Payment
ABDOMEN		EAR, NOSE OR THROAT	
Appendectomy	\$100.00	Fenestration, one or both ears	\$200.00
Removal of, or other operation on gall bladder	150.00	Mastoidectomy, one or both sides, simple	100.00
Gastro-enterostomy	150.00	radical	150.00
Resection of stomach, bowel or rectum	200.00	Tonsillectomy, adenoidectomy, or both	30.00
Other cutting into abdominal cavity for diagnosis, treatment or removal of organs therein	100.00	Sinus operation by cutting (puncture of antrum excepted)	50.00
ABSCESSSES (See Tumors)		Submucous resection of nasal septum	50.00
AMPUTATIONS		Tracheotomy	50.00
Thigh, leg	125.00	Any other cutting operation	15.00
Upper arm, forearm, entire hand or foot	100.00	EYE	
Fingers or toes, each	15.00	Operation for detached retina	200.00
BREAST		Cataract, removal of	150.00
Removal of benign tumor or cyst requiring hospital residence	50.00	Any other cutting operation into the eyeball (through the cornea or sclera) or cutting operation on eye muscles	100.00
Simple amputation	100.00	Removal of eyeball	75.00
Radical amputation	150.00	Any other cutting operation on eyeball	20.00
CHEST		FRACTURE, TREATMENT OF	
Complete thoracoplasty, transthoracic approach to stomach, diaphragm, or esophagus; sympathectomy or laryngectomy	200.00	Thigh, vertebra or vertebrae, pelvis (coccyx excepted)	75.00
Removal of lung or portion of lung	200.00	Leg, kneecap, upper arm, ankle (Potts), skull	50.00
Bronchoscopy, esophagoscopy—		Lower jaw (alveolar process excepted), collar bone, shoulder blade, forearm, wrist (Colles)	25.00
diagnostic	40.00	Hand, foot	15.00
operative	50.00	Fingers or toes, each	10.00
Induction of artificial pneumothorax,		Nose	10.00
initial	25.00	Rib or ribs, three or more	25.00
Refills, each (not more than 17)	10.00	Less than three	10.00
DISLOCATION, REDUCTION OF		The amounts shown above are for simple fractures.	
Hip, ankle joint, elbow or knee joint (patella excepted)	35.00	For a compound fracture, the maximum payment will be one and one-half times the amount shown above for the corresponding simple fracture.	
Shoulder	25.00	For a fracture requiring an open operation, the maximum payment will be twice the amount shown above for the corresponding simple fracture (bone grafting or bone splicing and skeletal traction pin are considered as open operations).	
Lower jaw, collar bone, wrist or patella	15.00		
For a dislocation requiring an open operation, the maximum will be twice the amount shown above.			
EXCISION OR FIXATION BY CUTTING			
Hip joint	150.00		
Shoulder, semilunar cartilage, knee, elbow, wrist or ankle joint	100.00		
Removal of diseased portion of bone, including curettage (alveolar processes excepted)	50.00		

SCHEDULE OF OPERATIONS (Continued)

	Amount of Payment		Amount of Payment
GENITO-URINARY TRACT		PARACENTESIS	
Removal of, or cutting into, kidney	\$200.00	Tapping	\$ 15.00
Fixation of kidney	150.00		
Removal of tumors or stones in ureter or bladder:		PILONIDAL CYST OR SINUS	
by cutting operation	100.00	Removal of	50.00
by endoscopic means	35.00		
Cystoscopy	25.00	RECTUM	
Removal of prostate by open operation	150.00	Hemorrhoidectomy, external	25.00
Removal of prostate by endoscopic means	100.00	Internal or internal and external	50.00
Circumcision	15.00	Cutting operation for fissure	25.00
Varicocele, hydrocele, orchidectomy or epididymectomy, single	50.00	Cutting operation for thrombosed hemor- rhoids	15.00
bilateral	75.00	Cutting operation for fistula in anus, single	50.00
Hysterectomy	150.00	multiple	75.00
Other cutting operations on uterus and its appendages with abdominal approach	100.00	SKULL	
Cervix amputation	50.00	Cutting into cranial cavity (drill taps excepted)	200.00
Dilatation and curettage (non-puerperal)	25.00	Drill taps	25.00
Conization	25.00		
Polypectomy (one or more)	25.00	SPINE OR SPINAL CORD	
Cauterization (where done separately and not in conjunction with any of above procedures)	25.00	Operation for spinal cord tumor	200.00
		Operation with removal of portion of verte- bra or vertebrae (except coccyx)	150.00
		Removal of part or all of coccyx	50.00
GOITRE		TUMORS	
Removal of thyroid, subtotal	150.00	Benign or superficial tumors and cysts or abscesses:	
Removal of adenoma or benign tumor of thyroid	100.00	Requiring hospital confinement	25.00
		Not requiring hospital confinement	10.00
		Malignant tumors of face, lip or skin	50.00
HERNIA		VARICOSE VEINS	
Single hernia	100.00	Injection treatment, complete procedure	40.00
More than one hernia	125.00	Cutting operation, complete procedure — one leg	50.00
		both legs	80.00
JOINT			
Incision into, tapping excepted	25.00		
LIGAMENTS AND TENDONS			
Cutting or transplant, single	50.00		
multiple	75.00		
Suturing of tendon, single	35.00		
multiple	50.00		

The Company will determine a consistent payment for any cutting operation not covered under this Schedule, unless payment for the operation is expressly excepted in the Schedule or by the other terms of this Policy.

SECOND SURGICAL OPINION EXPENSE BENEFITS PROVISIONS

SECOND SURGICAL OPINION EXPENSE BENEFITS. Upon receipt of due proof that any Person or Dependent, insured under this provision, consults a legally qualified physician for a second surgical opinion on the need of a surgical procedure of a non-emergency nature resulting from non-occupational injury or sickness, otherwise covered under and subject to the provisions of this policy, the Company will reimburse such Person, subject to the Limitations of this provision, for the reasonable and customary charges incurred for such consultation, including any necessary X-Ray and Laboratory examinations recommended by such legally qualified physician, but in no event shall the payment exceed the amount shown in the Schedule of Insurance.

If in the event the aforementioned second surgical opinion does not confirm the need for surgery and a Person or Dependent consults another legally qualified physician for a third opinion, the Company will reimburse such Person, subject to the Limitations of this provision, for the reasonable and customary charges incurred for the third consultation, including any necessary X-Ray and Laboratory examinations recommended by such legally qualified physician, but in no event shall the payment exceed the amount shown in the Schedule of Insurance.

DEFINITION

For the purpose of this provision, a legally qualified physician shall mean a physician who is Board certified in the field of proposed surgery or in the field of medical specialization concerned with the condition involved.

LIMITATIONS. No payment shall be made under the paragraph entitled SECOND SURGICAL OPINION EXPENSE BENEFIT:

- (1) for surgery consultation made by a physician who is not Board certified in the field of medical specialization concerned with the proposed surgery,
- (2) for more than two surgery consultations made in connection with the proposed surgery,
- (3) for any X-Ray and Laboratory charges other than charges made in connection with the surgical consultation,
- (4) unless the individual is examined in person by the physician rendering the second or third surgical opinion and a written report is submitted to the Company,
- (5) if the physician who renders the second or third surgical opinion also performs the surgery, or who has a financial interest in the outcome (for or against surgery) of his recommendation,
- (6) any surgical consultation fees incurred for:
 - (a) Dental work or treatment,
 - (b) Cosmetic surgery, except as required because of accidental bodily injury occurring while insured hereunder; "cosmetic surgery" shall not include reconstructive surgery when service is incidental to or follows surgery resulting from trauma, infection or other disease of the involved part, and reconstructive surgery because of congenital disease or anomaly of an eligible dependent child which has resulted in a functional defect,
 - (c) Occupational Disease. For the purpose of this Policy, the term "occupational disease" shall mean a disease for which such Person with regard to whom a claim is submitted, is entitled to benefits under the applicable Workmen's Compensation Law, Occupational Disease Law, or similar legislation,
 - (d) Accidental bodily injuries arising out of and in the course of such Person's or Dependent's employment.

MAJOR MEDICAL EXPENSE PROVISIONS

BENEFITS. Upon receipt of due proof that any Person or Dependent has incurred Covered Charges as a result of a non-occupational sickness or injury sustained while insured for these Major Medical benefits, the Company will pay an amount equal to 80% of the first \$2,500.00 of Covered Charges during any Benefit Year in excess of the Deductible Amount and 100% of the excess of such Covered Charges for the remainder of that Benefit Year.

DEDUCTIBLE AMOUNT. The deductible shall be equal to the sum of

- (a) the Basic Benefits Deductible as described below, and
- (b) \$100.00 per individual per Benefit Year (herein called the Cash Deductible); \$300.00 per Family Unit per Benefit Year.

For the purpose of the policy, the Basic Benefits Deductible means the amount of benefits payable with respect to Covered Charges under this policy, excluding Major Medical Expense and any group insurance program sponsored by the Policyholder, or the equivalent thereof should these benefits be either reduced or eliminated.

It is further provided that if any or all of an individual's Cash Deductible for a Benefit Year is deducted for Covered Charges incurred during the last three months of the Benefit Year, the Cash Deductible for such individual shall be reduced within the subsequent Benefit Year by the amount so deducted.

FAMILY DEDUCTIBLE. After three individuals in an eligible family unit have satisfied their individual Cash Deductible in a Benefit Year, no further deductible would be required for the eligible family unit for charges incurred thereafter in that Benefit Year.

MAXIMUM PAYMENT. The maximum amount payable under these Major Medical Expense Provisions with respect to all illnesses or injuries, due to the same or related causes of any one individual during such individual's entire lifetime shall be \$100,000.00. However, if at any time \$1,000.00 has been paid under these provisions with respect to an individual and the individual is not then qualifying for a major medical expense claim, the individual may have his Maximum Payment reinstated to \$100,000.00 upon submission, at his own expense, of evidence of insurability satisfactory to the Company.

"BENEFIT YEAR" is defined as the period April 1st through March 31st of any year.

COVERED CHARGES. "Covered Charges" referred to herein means the reasonable charges outlined below for necessary medical care and services which are ordered by a legally qualified physician:

1. (a) charges made by a duly constituted and lawfully operated hospital from the 121st day of hospital confinement; provided that the includable daily room and board charge may not exceed the hospital's average semi-private accommodations or if the hospital does not have semi-private accommodations, an amount not to exceed the average rate for semi-private accommodations charged by hospitals located in the surrounding geographical area,

- (b) charges made by such hospital for out-patient treatment,

MAJOR MEDICAL EXPENSE PROVISIONS
(Continued)

COVERED CHARGES (Con't)

2. charges for diagnosis, treatment, and surgery by a legally qualified physician practicing within the scope of his license,
3. charges made by a registered graduate nurse for private duty nursing service other than a nurse who ordinarily resides in the insured Person's home or who is a member of the immediate family,
4. charges for the following orthopedic or prosthetic appliances: artificial limbs or eyes for the initial replacement of natural limbs or eyes; initial truss, brace or support; cast, splints, crutches; rental of an iron lung, wheelchair or hospital type bed; oxygen and the rental of equipment for its administration except that charges in excess of the purchase cost thereof shall be excluded,
5. charges for the following: local ambulance service, x-ray services, laboratory tests, anesthesia and the administration thereof, the use of radium and radioactive isotopes, physiotherapy, and similar services and treatment, drugs and medicine obtainable only upon the prescription of a physician.

EXTENDED BENEFITS ON TERMINATION. Benefits are payable for Covered Expenses incurred on any day during the Benefit Year in which the individual's insurance coverage is terminated but not to exceed a period of twelve months from said termination date, provided the medical expenses are incurred with respect to an accidental bodily injury or sickness on account of which the individual is totally disabled at the time his insurance is terminated and is continuously disabled to the date each medical expense is incurred.

The words totally disabled, as used in the preceding paragraph, mean with respect to a Person, that the Person is prevented, solely because of disease or accidental bodily injury, from engaging in his regular or customary occupation, and, with respect to a Dependent, that the Dependent is prevented, solely because of disease or accidental bodily injury, from engaging in substantially all of the normal activities of a person like age and sex and in good health.

COMMON ACCIDENT. If two or more individuals insured hereunder as members of the same family sustain bodily injuries in the same accident, a single Cash Deductible requirement will be applicable to all such Covered Charges incurred, during the Benefit Year in which the accident occurred and the next succeeding Benefit Year, by such individuals due to the injuries sustained in such accident.

LIMITATIONS. "Covered Charges" shall in no event be deemed to include charges for services, supplies, or treatment:

1. unless such services, supplies, and treatment were prescribed as necessary by a legally qualified physician practicing within the scope of his license,

MAJOR MEDICAL EXPENSE PROVISIONS
(Continued)

LIMITATIONS (Con't)

2. during confinement in a hospital owned or operated by the Federal Government, unless there is a legal obligation to pay charges without regard to the existence of any insurance,
3. that the insured individual is not required to pay,
4. incurred for mental, psychoneurotic or personality disorders while not confined in a hospital, except that charges of a legally qualified physician for visits only will be covered up to 50% of such charges, including drugs, in excess of the Deductible Amount, but not to exceed \$20.00 a visit (\$10.00 payment) and 50 visits during any Benefit Year,
5. for expenses incurred for elective abortion, except those charges directly resulting from complications of such abortion, or for an abortion where the life of the mother would be endangered if the fetus were carried to term,
6. if they were incurred on account of
 - a) services performed on or to the teeth, nerves of the teeth, gingivae or alveolar processes, except to tumors or cyst or except as required because of accidental injury to natural teeth occurring while insured hereunder,
 - b) cosmetic surgery, except as required because of accidental injury occurring while insured hereunder,

"cosmetic surgery" shall not include reconstructive surgery when service is incidental to or follows surgery resulting from trauma, infection or other disease of the involved part, and reconstructive surgery because of congenital disease or anomaly of an eligible dependent child which has resulted in a functional defect,
 - c) eye refractions, eyeglasses, hearing aids, or the fittings thereof,
 - d) war or an act of war, declared or undeclared; committing or attempting to commit a felony, participation in a riot or insurrection,
 - e) accidental bodily injury arising out of and in the course of the individual employment,
 - f) occupational disease; for the purpose of this Policy the term "occupational disease" shall mean a disease for which the individual with regard to whom a claim is submitted, is entitled to benefits under the applicable Workmen's Compensation Law, Occupational Disease Law, or similar legislation,
 - g) transportation, except local ambulance service.

PAYMENT OF BENEFITS. Upon compliance with the Claims provision, benefits will be paid as they accrue.

VISION EXPENSE PROVISIONS

VISION EXPENSE BENEFITS. Upon receipt of due proof that any Person or Dependent has incurred Covered Vision Charges, while insured under this provision, the Company will, subject to the limitations and provisions of the Policy, pay such individual in an amount equal to the charges incurred for such Covered Vision Charges, but not more than the Maximum allowance for each Covered Service in accordance with the Schedule of Vision Benefits.

DEFINITIONS

"Covered Vision Charges" means charges which are for

- a. examinations performed by a licensed optometrist or ophthalmologist;
b. lenses prescribed by such persons;
c. frames purchased in conjunction with lenses newly prescribed by such persons.

Schedule of Vision Benefits

Table with 2 columns: Covered Services and Maximum Allowance. Rows include COMPLETE EXAMINATION (Ophthalmologist \$15.00, Optometrist \$15.00), Lens, Pair (Single Vision RX \$12.00, Bi-Focal RX \$18.00, Tri-Focal RX \$22.00, Lenticular \$30.00, Frames \$10.00).

LIMITATIONS

No benefits shall be payable for the following:

- 1. Examinations not otherwise excluded under these Limitations in excess of one per year.
2. Lenses in excess of one pair per year.
3. Frames (in conjunction with lenses newly prescribed) in excess of one set for any two year period.
4. Sunglasses, unless they are prescribed to be worn at substantially all times.
5. Glasses with tinted lenses, unless prescribed by an Ophthalmologist (M.D.) for medical reasons.
6. Routine yearly examinations required by an employer in connection with the occupation of the insured individual.
7. Vision Expense for Covered Services resulting from an accidental bodily injury arising out of or in the course of employment or from a disease compensable under any Workmen's Compensation, Occupational Disease or similar law.
8. Vision Expense for Covered Services in a hospital owned or operated by the Federal Government or for any Covered Service furnished for which the individual is not required to pay.

PAYMENT OF CLAIMS. Upon compliance with the claims provision, benefits will be paid as they accrue.

HEARING CARE EXPENSE PROVISIONS

Upon receipt of due proof that any Person or Dependent of such Person, while insured under this provision, has incurred charges for hearing care expense, the Company will, subject to the limitations and provisions of this policy, pay such individual an amount equal to the reasonable and customary charges incurred for such hearing care service in excess of the Deductible Amount stated in the Schedule of Insurance by the Coinsurance Percentage stated in the Schedule of Insurance but in no event to exceed, during an individual's entire lifetime, the Maximum Amount stated in the Schedule of Insurance.

Charges for Hearing Care Services includes charges for:

1. Examinations performed by a licensed Otolologist (M.D.) or licensed Otorhinolaryngologist (M.D.).
2. Audiometric testing by such licensed physician or an Audiologist certified by the American Hearing Association who possesses a master's degree from an accredited university providing training in this field.
3. A hearing device (monaural or binaural) prescribed by such licensed physician.

Limitations: No payment will be made under these provisions for:

- A. routine servicing or maintenance of, or batteries for, a hearing device;
- B. more than one hearing device (monaural or binaural) during any insured individual's entire lifetime;
- C. accidental bodily injury arising out of or in the course of employment or a disease compensable under any Workmen's Compensation, Occupational Disease or similar law;
- D. hearing care services or supplies received from a medical department maintained by the Policyholder, a mutual benefit association, labor union, trustees, employer or similar group or routine yearly examinations required by an employer in connection with the occupation of the insured individual for which the individual is not required to pay;
- E. hearing care services or supplies furnished in a hospital owned or operated by the federal government or for any covered services furnished by the federal government for which the individual is not required to pay;
- F. expenses incurred for services performed or supplies furnished by other than a legally qualified physician.

THE UNION LABOR LIFE INSURANCE COMPANY

Attached to and made part of Group Policy No. C-2023

Effective Date: APRIL 1, 1980

This Policy is amended by the addition of the following provision:

CONVERSION UPON TERMINATION OF INSURANCE

Upon termination of insurance due to termination of the Person's or dependent's membership in the classes eligible for insurance hereunder in accordance with the provisions of this Policy entitled, "Termination of Person's Insurance" or "Termination of Dependent's Insurance," such Person or dependent shall, subject to the conditions hereinafter stated, be entitled to have issued to him without evidence of insurability a Policy of insurance (hereinafter referred to as the "Converted Policy") by making written application therefor and paying the first quarterly premium, or at the option of the Person or dependent, a semi-annual or annual premium, to the Company within thirty-one days after such termination of insurance.

The premium for the converted policy shall be that applicable on such Policy's effective date to the class of risk to which the covered Persons or dependents belong, to the ages of such Persons and dependents and to the form and amounts of coverage provided. The effective date of the converted policy shall be the date of such termination of insurance under this policy. The converted Policy shall provide coverage under Plan 1 if the covered person is age 65 or over; or at the option of the person, coverage under Plans 2, 3, 4, 5, or 6 if the covered person is less than 65 years of age. Dependents over age 65 will also convert to Plan 1. Dependents under age 65 may convert to Plan 2, 3, 4, 5, or 6.

In no event shall a person convert to a plan providing greater benefits than those for which the person was insured under the Group policy.

Plan 1

Pays 80% of the charges in excess of the sum of (a) the first \$50 of expenses incurred as a result of an accident or sickness and (b) the amounts payable under Parts A and B of Medicare up to a maximum sum of \$5,000 during the person's lifetime.

Plan 2

Pays:

- a. Hospital room and board expense benefits of \$10 per day for a maximum duration of 21 days,
- b. Miscellaneous hospital expense benefits up to a maximum amount of \$100, and
- c. Surgical operation expense benefits according to a \$200 maximum benefits schedule.

Plan 3

Pays:

- a. Hospital room and board expense benefits of \$15 per day for a maximum duration of 30 days,
- b. Miscellaneous hospital expense benefits up to a maximum amount of \$150, and
- c. Surgical operation expense benefits according to a \$250 maximum benefits schedule.

Plan 4

Pays:

- a. Hospital room and board expense benefits of \$15 per day for a maximum duration of 70 days,
- b. Miscellaneous hospital expense benefits up to a maximum amount of \$150, and
- c. Surgical operation expense benefits according to a \$300 maximum benefits schedule.

Plan 5

Pays:

- a. Hospital room and board expense benefits of \$20 per day for a maximum duration of 30 days,

- b. Miscellaneous hospital expense benefits up to a maximum of \$200,
- c. Surgical operation expense benefits according to a \$250 maximum benefits schedule, and
- d. In-hospital medical expense benefits of \$4 per day for a maximum of 30 days.

Plan 6

Pays:

- a. Hospital room and board expense benefits of \$25 per day for a maximum of 30 days,
- b. Miscellaneous hospital expense benefits up to a maximum of \$250,
- c. Surgical operation expense benefits according to a \$300 maximum expense benefits schedule, and
- d. In-hospital medical expense benefits of \$5 per day for a maximum of 30 days.

Coverage will be provided under plan 1 if the Person's dependent is over age 65. Plans 2, 3, 4, 5, and 6 shall at the option of the Person, provide identical coverage for the dependents of such Person who are less than 65 years of age and covered under this Policy.

The converted policy will not provide any maternity or obstetrical procedure benefits.

The converted policy may exclude any condition excluded by the Policy and shall not exclude any other pre-existing conditions. Furthermore, any such benefits otherwise payable under the converted policy with respect to any person covered thereunder shall be reduced by the amount of any such benefits payable under this policy with respect to such person after the termination of his insurance hereunder.

Conversion as provided above shall also be available upon the death of the Person to the surviving spouse with respect to such of the spouse and children as are then covered by the Policy, and shall be available to a child solely with respect to himself upon his attaining the limiting age of coverage under the Policy or his prior marriage while covered as a dependent hereunder.

The Policyholder will notify each Person of such conversion privilege and its duration within fifteen days after the date of termination of coverage under the Policy. If such notice is given more than fifteen days but less than ninety days after the date of termination of group coverage, the Company will extend the time for the exercise of such conversion privilege fifteen days after the giving of such notice. If the Policyholder does not give such notice within ninety days after the termination of group coverage, the time allowed for the exercise of such conversion privilege will expire at the end of such ninety days. Written notice by the Policyholder given to the Person at his last address shall be deemed notice to the Person.

Upon receipt of written request fifteen days prior to the termination of a Person's insurance, the Company will provide the Person with the details of the conversion Policy prior to the termination of the Person's insurance.

If written request is received less than fifteen days prior to the date the Person's insurance terminates, the Company will provide the details of the conversion Policy as soon as is reasonably possible.

If the Converted Policy made available hereunder in the jurisdiction where this Policy is issued cannot be lawfully issued to the Person under the applicable laws and regulations of (i) the jurisdiction where application for conversion is made or (ii) the jurisdiction where he resides when his application for conversion is made, then such Person shall have the option of converting to a Policy on such other form as the Company is then offering for conversion of insurance hereunder in the jurisdiction where he resides.

This rider replaces any similar rider or provisions in the Group Policy.

THE UNION LABOR LIFE INSURANCE COMPANY

Richard F. Mahoh.
Secretary

NOTICE TO POLICYHOLDERS

Please Read This Group Policy Upon Receipt

When writing to the office of the Company give this Group Policy Number and state clearly the name and complete address of the Person to whom the Company's reply should be sent.

When this Person or the address changes do not fail to notify the Company at its Head Office in New York, N. Y.

The Company's Agents have no authority to alter or amend this Policy, to accept premiums in arrears or to extend the due date of any premium.

Checks, Drafts or Money Orders in payment of premiums should be drawn to the Order of THE UNION LABOR LIFE INSURANCE COMPANY.

Premium Payments are invalid unless made in exchange for an official receipt signed by the President or Secretary of the Company and properly countersigned, and until the remittance, if tendered by check or draft, is honored on presentation for payment.

In the event of a loss by a Person insured under this Policy, the Policyholder should promptly notify the Company at its Head Office in New York, N. Y., upon forms, a supply of which will be furnished by the Company. Prompt return of such forms, fully and properly made out, will aid the Company to make prompt settlement of claims.

The UNION LABOR LIFE INSURANCE COMPANY

NEW YORK, N. Y.

Group Term Insurance Policy Providing, Until Termination

	For Insured Person	For Insured Person's Dependent
Accidental Death and Dismemberment	X	
Loss of Time (Weekly Indemnity)		
Hospital Expense		
Medical Expense	X	X
Surgical Expense		
Diagnostic X-ray Examination Expense		
Laboratory Examination Expense		
Supplementary Accident Medical Expense		
Poliomyelitis Expense		
Major Medical Expense	X	X
Second Surgical Opinion Expense	X	X
Vision Expense	X	X
Hearing Care Expense	X	X

Number C-2023
 Effective Date APRIL 1, 1980
 MONTHLY PREMIUMS
 NON-CONTRIBUTORY Annual Dividends

GC-2600-011

1 JOSEPH ROLNIK, et al, * IN THE
 2 Plaintiffs, * CIRCUIT COURT
 3 vs. * FOR
 4 THE UNION LABOR LIFE * BALTIMORE CITY
 5 INSURANCE COMPANY, et al, *
 6 Defendants. *
 7 * * * * *
 8 * Case No. 87313071/CL73531

8 Pursuant to Notice, the deposition of GLENN SHAFFER
 9 was taken on Friday, January 20, 1989, commencing at 9:00 a.m.,
 10 at the law offices of Miles and Stockbridge, 1200 - 10 Light
 11 Street, Baltimore, Maryland, 21202, before James F. O'Brien,
 12 Jr., a Notary Public.

13 APPEARANCES:

14 Mark T. Mixter, Esquire,
 On behalf of the Plaintiffs Rolniks.
 15 Thomas M. Trezise, Esquire,
 On behalf of the Plaintiff Sheppard Pratt.
 16 Lettie Moses, Attorney at Law,
 17 On behalf of the Defendant The Union Labor Life
 Insurance Company.
 18 Kristine A. Crosswhite, Attorney at Law,
 19 On behalf of the Defendant I. E. Shaffer and
 Company.

20 Reported by:
 21 James F. O'Brien, Jr.

1 you finished school?

2 A I have been there since 1971.

3 Q Can you describe for me the business of I. E. Shaffer?

4 A I. E. Shaffer and Company is a professional adminis-
5 trator of employee benefit plans. We administer plans that are
6 primarily involved in the area of union-negotiated plans dealing
7 primarily with construction unions throughout New Jersey, a
8 little bit in New York and a little bit in Pennsylvania.

9 It's our job to administer the day to day affairs of
10 these plans, which include health insurance plans, pension funds,
11 defined contribution pension plans, vacation plans, any kind of
12 fringe benefit plan a union group might have.

13 Q You did that for the Hudson County Carpenters Union?

14 A Correct.

15 Q For how long, when did your relationship with that
16 particular union as administrator of their fringe benefit plans,
17 if you will, when did that begin?

18 A I believe it was in the fall of 1978.

19 Q When you began that relationship, what plans were you
20 administrator for the Hudson County Carpenters Union?

21 A They have a welfare pension fund, a vacation fund,

1 education fund and industry advancement and annuity fund. Also
2 some collections we make on behalf of the union for working
3 assessments which are deducted from each man's pay.

4 Q You did all those things right from the start?

5 A Correct.

6 Q When you say welfare fund, is that, in essence, their
7 health insurance plan?

8 A Welfare and health insurance plan.

9 Q Did you have a contract with the Hudson County
10 Carpenters Union?

11 A Yes, I did.

12 MR. MIXTER: Off record.

13 (Whereupon, Deposition Exhibit
14 Number 28 marked.)

15 BY MR. MIXTER:

16 Q I show you what has been marked as Exhibit 28. I'm
17 going to try to lead you along.

18 Is this the contract between your company and the
19 Hudson County Carpenters Union that was in existence not only
20 on the date on the contract, which appears to be 1978, but
21 right through 1987?

7

1 A Yes, this is the contract with the welfare fund.

2 Q For the health plan that is the subject of this case?

3 A Right.

4 Q Without going through the contract, what sort of
5 compensation -- how was compensation to be determined to
6 Shaffer for the work it performed?

7 A The trustees of the welfare fund pay me a fee, much
8 as they would an accountant or an attorney, for performing the
9 administrative duties. And our fee is based on a percentage of
10 the contributions that are remitted by the contributing em-
11 ployees under the plan.

12 Q Was it your responsibility to purchase the insurance
13 that was to be in place as part of the plan that the employees
14 of the union enjoyed the benefits of?

15 A No.

16 Q Did they do that themselves?

17 A Yes.

18 Q Do you remember when it was that Union Labor Life
19 Insurance Company first insured part of the health plan for the
20 Carpenters Union, or were they on the risk -- or were they on
21 the risk when you came on the scene?

1 A They were there.

2 Q The Union was insuring at least part of the welfare
3 plan of the Carpenters Union prior to 1978?

4 A Right.

5 Q Were they continuously on the risk from 1978 forward,
6 or was there a gap, if you recall?

7 A They had been continuously on the risk with the
8 exception of 1980, I believe, they were replaced by Blue Cross
9 of New Jersey with respect to the hospitalization benefits only.

10 Q That continued through 1987?

11 A Yes.

12 Q Miss Barsky testified from Union Labor Life yesterday
13 there was a large retention with respect to the -- who paid in
14 this instance under the major medical -- I'm jumping ahead a
15 little.

16 Is that your understanding as well?

17 A I don't understand what you mean by --

18 Q Who would pay, for instance, the initial dollars of
19 coverage under the major medical provision of the policy issued
20 by Union Labor Life Insurance Company?

21 MS. CROSSWHITE: It may make some sense to let him

PRESIDING JUDGE

COURTROOM CLERK

STENOGRAPHER

ASSIGNMENT FOR TUESDAY JULY 11, 1989 P32

CASE NUMBER - 87313071
CASE TITLE - ROLNIK V UDN LABOR LIFE INS. CO. CL73531
CATEGORY - OTHER LAW
PROCEEDING - PRE-TRIAL COHERENCE

*I E SHAFFER AND COMPY
BURT, GARY M
CROSSWHITE, KRISTINE A
EYLER, JAMES
MOSES, LETTIE E
THOMPSON, KENNETH
TREZISE, THOMAS
MIXTER, MARK

DEFENDANT
DEFENSE ATTORNEY 727-6464
DEFENSE ATTORNEY 727-6464
DEFENSE ATTORNEY 727-6464
DEFENSE ATTORNEY 539-2530
DEFENSE ATTORNEY 296-4400
PLAINTIFF ATTORNEY 727-1164

Knowingly set for trial 9/11/89

TYPE OF PROCEEDING: () JURY () NON-JURY () OTHER

DISPOSITION (CHECK ONE)

- () SETTLED () CANNOT SETTLE () NEXT COURT DATE
() VERDICT () REMANDED () NON PROS/DISMIS
() JUDGEMENT NISI () ORDER/DECREE SIGNED () OTHER PLEASE EXPLAIN:
() JUDGEMENT ABSOLUTE () ORDER/DECREE TO BE SIGNED
() POSTPONED () MOTION GRANTED
() SUB CURIA () MOTION DENIED

SIGNATURE [Signature] DATE 7/11/89

FILED

JOSEPH ROLNIK and
DEBORAH ROLNIK

MAY 19 1989

IN THE

Plaintiff

*
CIRCUIT COURT FOR
BALTIMORE CITY

CIRCUIT COURT

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAEFER

*
*
*
*

FOR

Defendants

*

BALTIMORE CITY

87313071/CL73531

* * * * *

NOTICE OF TELEPHONIC DEPOSITION DUCES TECUM

PLEASE TAKE NOTICE that on Tuesday, June 27, 1989
at 10:00 a.m. at the law offices of Smith, Somerville & Case,
100 Light Street, Fourth Floor, Baltimore, Maryland 21202, the
plaintiffs will, upon oral examination, take the telephonic
deposition, pursuant to the Maryland Rules of Procedure,
before a Notary Public, or some other officer authorized by
law, to continue from day to day until complete of the
following person:

Anthony M. D'Agostino, M.D.
990 Grand Canyon Parkway
Hoffman Estates, Illinois

to appear and bring with him any and all records pertaining to
the care and treatment of Deborah Rolnik, DOB 05/18/64,
including but not limited to statements of account, office
records, reports, memoranda, x-rays, test results, charts,
consultation notes, and any other document pertaining to said
treatment, etc.

Mark T. Mixer

Mark T. Mixer

RM

Smith, Somerville & Case

Smith, Somerville & Case
100 Light Street-Fourth Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 1989,
a copy of the foregoing notice of deposition was mailed to:

Kristine A. Crosswhite, Esquire
Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Post Office Box 6705
Towson, Maryland 21285

Brian Smith, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Mark T. Mixer

Mark T. Mixer

FILED

FEB 2 1989

H/RT

JOSEPH ROLNIK and
DEBORAH ROLNIK

CIRCUIT COURT FOR
BALTIMORE CITY,

IN THE

Plaintiff

CIRCUIT COURT

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAEFER

FOR

Defendants

BALTIMORE CITY

87313071/CL73531

* * * * *

ANSWER OF JOSEPH ROLNIK AND DEBORAH ROLNIK TO THE
COUNTER CLAIM OF SHEPPARD & ENOCH PRATT HOSPITAL

Joseph Rolnik and Deborah Rolnik by their counsel, Mark T. Mixer and Smith, Somerville & Case and states for their answer to the counter claim filed by Sheppard & Enoch Pratt Hospital in each and every count thereof as follows:

1. That the counter claim fails to state a claim upon which relief can be granted.
2. That the counter defendants generally deny liability to the counter plaintiffs in the manner alleged.
3. That the counter claim is barred by the applicable statute of limitations.
4. That Deborah Rolnik denies that she has the capacity to be sued.

Mark T. Mixer

Mark T. Mixer

Smith, Somerville & Case

Smith, Somerville & Case
100 Light Street, Sixth Floor
Baltimore, Maryland 21202
(301) 727-1164

REQUEST FOR JURY TRIAL

The counter defendants, Deborah Rolnik and Joseph Rolnik request that the counter claim of Sheppard & Enoch Pratt Hospital and all issues asserted therein, be tried to a jury.



Mark T. Mixer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of Feb., 1989 a copy of the foregoing answer of Joseph Rolnik and Deborah Rolnik to the counter claim of Sheppard & Enoch Pratt Hospital was mailed to:

Thomas M. Trezise, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Towson, Maryland 21204

Kristine A. Crosswhite, Esquire
Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202

Kenneth L. Thompson, Esquire
Lettie E. Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201



Mark T. Mixer

FILED

JAN 27 1989

CIRCUIT COURT FOR BALTIMORE CITY

6

JOSEPH ROLNIK, et al.	*	IN THE
Plaintiffs	*	CIRCUIT COURT
v.	*	FOR
THE UNION LABOR LIFE	*	BALTIMORE CITY
INSURANCE COMPANY, et al.	*	87313071/CL73531
Defendants		

* * * *

COUNTER-CLAIM OF DEFENDANT
SHEPPARD AND ENOCH PRATT HOSPITAL
AGAINST JOSEPH ROLNIK AND DEBORAH ROLNIK

The Sheppard and Enoch Pratt Hospital by its attorneys, Thomas M. Trezise, Kevin M. Soper, and Semmes, Bowen & Semmes, files this Counter-Claim against the Plaintiffs, Joseph Rolnik and Deborah Rolnik, and for reasons, states:

COUNT I

1. That by a written agreement, Plaintiff Joseph Rolnik promised to pay for charges incurred by his daughter, Deborah Rolnik, while she was a patient at the Defendant/Counter-Plaintiff's Hospital for the period from July 17, 1984, to March 17, 1987. See Agreement attached hereto as "Exhibit 1."

2. That charges in the amount of \$97,783.46 for board, medical attention, and personal items provided to Deborah Rolnik remain due and unpaid, despite the demands of the Defendant/Counter-Plaintiff, such amount being a

fair and reasonable charge for the services rendered by the Defendant/Counter-Plaintiff.

WHEREFORE, the Defendant/Counter-Plaintiff prays that judgment be entered in its favor under Count I against Plaintiff Joseph Rolnik for \$97,783.46.

COUNT II

1. That Plaintiff Deborah Rolnik was a patient at the Defendant/Counter-Plaintiff's Hospital for the period from July 17, 1984, to March 17, 1987, and received services for board, medical attention, and personal items.

2. That charges in the amount of \$97,783.46 for board, medical attention, and personal items provided to Deborah Rolnik remain due and unpaid, despite the demands of the Defendant/Counter-Plaintiff, such amount being a fair and reasonable charge for the services rendered by the Defendant/Counter-Plaintiff.

WHEREFORE, the Defendant/Counter-Plaintiff prays that judgment be entered in its favor under Count II against Plaintiff Deborah Rolnik for \$97,783.46, plus interest and costs of suit.

Thomas M. Trezise
Thomas M. Trezise

Kevin M. Soper
Kevin M. Soper
Semmes, Bowen & Semmes
401 Washington Avenue
Towson, MD 21204
296-4400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of January, 1989, a copy of the foregoing Counter-Claim was mailed to MARK T. MIXTER, ESQUIRE, Smith, Somerville & Case, 100 Light Street, 4th Floor, Baltimore, MD 21202, KRISTINE A. CROSSWHITE, ESQUIRE, Miles & Stockbridge, 10 Light Street, Baltimore, MD 21202, and KENNETH L. THOMPSON, ESQUIRE, and LETTIE E. MOSES, ESQUIRE, Piper & Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, MD 21201.

Kevin M. Soper
Kevin M. Soper

- AGREEMENT -

In consideration of Deborah ReInik being admitted on or about July 17, 1984
(name of patient)

by The Sheppard and Enoch Pratt Hospital, as a patient for care and treatment, we, the undersigned, hereby do jointly and severally promise and agree to the following terms and conditions:

I **Rates and Deposits:** We, the undersigned, do jointly and severally promise to pay to the Trustees of The Sheppard and Enoch Pratt Hospital (a corporation of the State of Maryland) for each day a bed is reserved and available for the patient:

(1) \$232.00 dollars per day for board, maintenance, and treatment, for every day in which the patient is in the Hospital's Adult Inpatient Programs, OR

(2) _____ dollars per day for board, maintenance, therapeutic educational programs and treatment, for every day in which the patient is a patient in the Hospital's Child and Adolescent Inpatient Programs, except as set forth in item 4 below, OR

(3) _____ dollars per day for board, maintenance, therapeutic educational programs and treatment, for every day in which the patient is a patient in the Hospital's Adolescent Short Term Program, except as set forth in item 4 below;

AND IN ADDITION TO THE CHARGES SET FORTH IN (1), (2) OR (3) ABOVE,

(4) Charges for all therapies, whether individual or group therapy, including but not limited to psychotherapy and charges for social work services, admission fee, personal fees and expenses, charges for psychological examinations, therapeutic educational program services, if the patient is not a patient in the Hospital's Child and Adolescent Inpatient Programs or in the Hospital's Adolescent Short Term Program, medical services, including but not limited to X-rays, lab fees, etc. and any other special services required, as incurred, as described in the Hospital's Inpatient Rate Schedule set forth on the reverse side of this Agreement.

A deposit is required in an amount of \$ _____ for board, maintenance and treatment charges, plus \$ 200.00 for personal charges.

Rates for board, maintenance and treatment [items (1), (2) or (3) above] may be changed at any time upon notice by the Hospital and mailed to the last known address of the first undersigned at least two (2) weeks in advance of such a rate change. No such notice is required, however, when any such rate change will take effect within two (2) weeks of the date of this Agreement. All other rates listed on the Hospital's Inpatient Rate Schedule set forth on the reverse side of this Agreement may be changed without notice.

II **Billing:** Monthly bills will be directed to the first Undersigned only, but payment remains the responsibility of all individuals who sign this Agreement. Payment of the entire amount shown on the monthly bill shall be due and payable when rendered. A late charge of \$2.00 or 2% of the amount shown as due upon the statement rendered to the customer, whichever is greater, may be assessed if payment is not received in the Hospital's Financial Office within thirty (30) days from the date billed.

III **Clothing, Independent Medical Services and Other Necessities:** We, the undersigned, promise to provide and supply the patient with all requisite clothing and other things deemed by the Medical Director necessary or proper for the comfort of the patient. If the patient requires medical treatment or services at any facility other than the Hospital, or for any medical or other service not included on the Hospital's Inpatient Rate Schedule set forth on the reverse side of this Agreement, we understand that the Hospital is not obligated to pay for such treatment or services and agree to pay all charges relating to such treatment or services to the institutions, physicians or providers concerned.

IV **Indemnification Against Loss:** We, the undersigned, agree to be responsible for and to indemnify the Trustees, its agents and employees, from any and all claims, actions or payments, whether or not resulting from the negligence of the Trustees, its agents and employees, by reason of damage to or loss of personal property in the custody of the patient, and agree that all personal property shall be held at the patient's risk. We agree to pay for all furniture or other property broken or injured by the patient and agree to remove the patient from the Hospital promptly when requested to do so or upon failing to do so promptly to pay all expenses which have been incurred in sending the patient to friends or elsewhere.

V **Treatment and Discharge; Discretion of Medical Director:** It is hereby agreed that the Hospital admits the patient with the understanding that it reserves the right to discharge the patient, at any time, for any reason that may be satisfactory to the Medical Director. Furthermore, it is agreed that the location of the patient in the Hospital and the attention and treatment given are matters of medical judgment entirely within the discretion of the Medical Director.

VI **Joint and Several Liability:** It is also understood and agreed by us that we are jointly, severally and primarily liable under this Agreement and that no demand or claim against the patient or the patient's estate, for the amount due, and no attempt to collect therefrom, need be made to render us, or either of us liable under this Agreement.

VII **Availability of Insurance; No Effect on Agreement:** We, the undersigned, understand and agree that if any of the charges incurred under this Agreement have not been paid when due, we are personally obligated, jointly and severally, to pay all such charges to the Hospital, regardless of the existence or availability of payments from any source not a party to the Agreement for such charges. We further understand and agree that we are responsible for all matters relating to any insurance coverage and that although the Hospital may assist us in connection with matters relating to insurance, including, but not limited to, the making of a claim for insurance benefits, the Hospital is not obligated to do so, either contractually hereunder or otherwise, and has no responsibility for any such matters, except where required by law. We further understand and agree that the furnishing of any such assistance by the Hospital shall not relieve us of any of our obligations under this Agreement.

VIII **Refund of Insurance Overpayment:** We, the undersigned, agree that if the Hospital should receive payments for the account of the above-named patient from any insurance carrier and/or any other payor so that the total amount received from all sources of payment for the patient's account exceeds the total charges incurred, the Hospital shall have the right to refund the amount of such overpayment to any one or more of such insurance carriers or payors that it may elect, in its sole discretion, provided however, that the amount refunded to any such carrier or other payor shall not exceed the amount received from the carrier or payor.

IX **Default; Costs of Collection; Attorneys Fees; Report of Credit Information:** In the event the account is not paid when due, we, the undersigned, agree to pay all costs of collection, including an attorney's fee of fifteen percent (15%) of the balance due at the time the account is referred to an attorney for collection. We further agree to pay simple interest at the rate of 6% per annum on the outstanding balance due each and every month after the account has been referred to an attorney for collection. We understand and agree that the account may be referred to an attorney or other collection agency for collection if at any time any amount due remains unpaid for ninety (90) consecutive days from the date billed. We further understand and agree that our payment history and the status of our account with you may be disclosed to a credit bureau, except where prohibited by law.

X **Integration of Prior Agreements:** This Agreement is a full, final and complete integration of the agreement between the parties and may not be varied or contradicted by any prior oral or written agreement. Except as provided herein, the terms may be modified at any time after the date of this Agreement only by a writing signed by an authorized officer of the Hospital's Financial Office and all of the undersigned parties.

XI **Controlling Law; Consent to Jurisdiction and Service of Process:** This Agreement shall be deemed to have been made in Towson, Baltimore County, Maryland, regardless of the place where or the order in which the signatures of the parties shall be affixed hereto, and shall be interpreted, and the rights and liabilities of the parties here determined, in accordance with the laws of the State of Maryland. We, the undersigned, hereby designate Frederic F. Hinze, or in his absence the acting Comptroller of the Hospital, Towson, Maryland, as agent for the purpose of accepting service of any process within the State of Maryland, provided he, or in his absence, the acting Comptroller of the Hospital, upon receipt of service, promptly mails by certified mail to the undersigned's last known address all pleadings and notice of suit. Furthermore, we hereby consent to the jurisdiction of the courts of Baltimore County for the purpose of any suit filed seeking redress on the basis of this Agreement.

THIS IS A BINDING CONTRACT. PLEASE READ BEFORE SIGNING

AS WITNESS our hands and seals this 17th day of July, 1984

Witness to 1st Signature:
Name P. Fertile
Address Towson, Md 21204

First Signer to Agreement:
Name Joseph ReInik (SEAL)
Address ed sunset ave Bayore N.J.

Witness to 2nd Signature:
Name _____
Address _____

Second Signer to Agreement:
Name _____ (SEAL)
Address _____

FILED

DFC 15 1988

44 PD

JOSEPH ROLNIK, et al.,
Plaintiffs,

CIRCUIT COURT FOR
BALTIMORE CITY
* CIRCUIT COURT

v.

* FOR
* BALTIMORE CITY

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,
Defendants.

*
* Case No. 87313071/CL73531
*

* * * * *

ANSWERS TO INTERROGATORIES

Defendant, I.E. Shaffer & Company ("I.E. Shaffer"),
by its attorneys, James R. Eyler and Kristine A. Crosswhite,
pursuant to Rule 2-421 of the Maryland Rules of Procedure,
answers the Interrogatories propounded by the plaintiffs,
Joseph and Deborah Rolnik, and states:

- A. The information supplied in these Answers To Interrogatories is not based solely on the knowledge of the executing party, but includes the knowledge of the party's agents, representatives and attorneys, unless privileged.
- B. The word usage and sentence structure may be that of the attorney assisting in the preparation of these Answers to Interrogatories and thus does not necessarily purport to be the precise language of the executing party.
- C. As I.E. Shaffer is a corporate defendant it cannot possibly have personal knowledge of the information set forth in these Answers to Interrogatories. Accordingly, the information set forth herein is based on the knowledge of I.E. Shaffer's agents, representatives and attorneys, unless privileged.

INTERROGATORY NO. 1: State the full name and position with your organization of the person who is signing these Answers to Interrogatories on your behalf.

ANSWER: Glenn D. Shaffer
840 Bear Tavern Road
CN 01028
West Trenton, New Jersey 08628-0230
Position: President
I.E. Shaffer & Company

INTERROGATORY NO. 2: State the full name, business address, and title of each and every person who was responsible for handling or overseeing the file concerning Deborah Rolnik, d/o Joseph; d.o.s.: 7/17/84-1987; patient no. 39474-2; policy no. C-2023.

ANSWER: I.E. Shaffer's business records reflect that the following agents, servants or employees may have been involved in the handling of the Deborah Rolnik file:

Glenn D. Shaffer
President
I.E. Shaffer & Company, Inc.
840 Bear Tavern Road
CN 01028
West Trenton, New Jersey 08628-0230

Julie A. Carabelli Immordino
Claims Representative
I.E. Shaffer & Company, Inc.
840 Bear Tavern Road
CN 01028
West Trenton, New Jersey 08628-0230

David F. Wiater
Claims Supervisor
I.E. Shaffer & Company, Inc.
840 Bear Tavern Road
CN 01028
West Trenton, New Jersey 08628-0230

Debbie Gray
Claims Supervisor
I.E. Shaffer & Company, Inc.
840 Bear Tavern Road
CN 01028
West Trenton, New Jersey 08628-0230

Cheryl Johnston Willois
Claims Representative
I.E. Shaffer & Company, Inc.
840 Bear Tavern Road
CN 01028
West Trenton, New Jersey 08628-0230

In addition, I.E. Shaffer's business records and discovery provided in this matter to date indicate that the following agents, servants or employees of Union Labor Life Insurance Company ("ULL") may have been involved in the handling of the Deborah Rolnik file:

Laura DeLong Shannon, Esquire
Staff Attorney
ULL
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Ms. Ettie Barsky
ULL
Cost Containment
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Meg Guessford
ULL
Cost Containment
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Sue Borowski
ULL
Cost Control Department
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Karen Thomas
ULL
Cost Control Department
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Joseph Ranaudo
ULL
Group Administrative Support
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Richard Collins
Vice President
ULL
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

John Peppi
Second Vice President
ULL
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Richard Bianchi
Assistant Vice President
ULL
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Lawrence Bresnahan
ULL
Group Administrative Support
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Daniel J. O'Sullivan
President
ULL
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Thomas Kiley
ULL
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Finally, I.E. Shaffer's business records and discovery provided in this matter to date indicate that the following administrative personnel of Sheppard and Enoch Pratt Hospital ("Sheppard-Pratt) may have been involved in the handling of the Deborah Rolnik file:

William B. Cornell, III
Finance Department
Sheppard-Pratt
P.O. Box 6815
Towson, Maryland 21204

Kathryn Gallagher
Sheppard-Pratt
P.O. Box 6815
Towson, Maryland 21204

Joyce Floyd
Sheppard-Pratt
P.O. Box 6815
Towson, Maryland 21204

P. Gentile
Sheppard-Pratt
P.O. Box 6815
Towson, Maryland 21204

INTERROGATORY NO. 3: State the name, present business address, and title of each and every person who played any role, consultive or otherwise, in the decision to deny payment for medical services received by Deborah Rolnik from the Sheppard & Enoch Pratt Hospital, Inc.

ANSWER: I.E. Shaffer did not make the ultimate decision to deny payment for medical treatment received by Deborah Rolnik subsequent to January, 1986. Rather, that decision was made by ULL, its agents, servants and employees. However, any and all of the persons listed in I.E. Shaffer's Answers to Interrogatories Nos. 1 and 2, which are incorporated herein by reference, may have played a "role" in the decision-making process, depending upon how broadly the word "role" is defined. In addition, Anthony M. D'Agostino, M.D. ("Dr. Agostino"), 990 Grand Canyon Parkway, Hoffman Estates, Illinois 60194-1797, played a consultative role in determining the medical necessity of Deborah Rolnik's continued treatment at Sheppard-Pratt. Finally, Deborah Rolnik's treating physicians and mental health providers at Sheppard-Pratt may have played a consultative role in determining the medical

necessity for her continued treatment through reports submitted to ULL via I.E. Shaffer for review.

INTERROGATORY NO. 4: State the names, addresses and telephone numbers of all experts whom you propose to all as witnesses, and state the subject matter upon which the expert is expected to testify; the substance of the findings and opinions to which the expert is expected to testify; a summary of the grounds for each opinion; and attach to these answers any written reports made by any expert concerning these finds and opinions.

ANSWER: I.E. Shaffer may rely upon Dr. D'Agostino, address listed above as an expert witness at the trial of this matter. Dr. D'Agostino is expected to testify in accordance with his report of February 19, 1987, a copy of which previously was supplied by counsel for ULL.

I.E. Shaffer also may rely upon Glenn Shaffer as an expert witness at the trial of this matter. Mr. Shaffer may render expert opinion testimony concerning the scope of coverage available to Deborah Rolnik under her father's ULL policy and the nature of the relationship between I.E. Shaffer, ULL and the Trustees of the Hudson County Carpenters Welfare Fund.

I.E. Shaffer specifically reserves the right to rely upon expert witnesses called by the plaintiff and co-defendants.

INTERROGATORY NO. 5: If you contend that the treatment provided to Deborah Rolnik by the Sheppard & Enoch Pratt Hospital, Inc. was not medically necessary, give a complete statement of all facts upon which you intend to rely to support your position.

ANSWER: I.E. Shaffer does so contend, however, all decisions with respect to the medical necessity for Deborah Rolnik's contined treatment were made by ULL, not by I.E. Shaffer. See report of Dr. D'Agostino which previously was supplied by counsel for ULL.

INTERROGATORY NO. 6: If you contend that you were not acting as the agent, servant or employee of Union Labor Life Insurance Company with respect to the subject matter of this litigation, give a concise statement of the facts upon which you intend to rely to support your contention.

ANSWER: I.E. Shaffer objects to Interrogatory No. 6 on the ground that the question, as phrased, calls for a legal conclusion. Without waiving the foregoing objection, I.E. Shaffer states as follows. I.E. Shaffer was employed by the Trustees of the Hudson County Carpenters Welfare Fund (the "Fund") to serve as Plan Administrator. The purpose of the Fund is to provide health care benefits to active eligible and retired employees and their eligible dependents. The benefits under the Fund's health care plan are partially insured by Blue Cross of New Jersey and partially insured by ULL. At the request of the Trustees of the Fund, ULL granted to I.E. Shaffer the authority to process claims payable under the ULL policy with the Fund. I.E. Shaffer is obligated to process claims in accordance with the provisions of the ULL policy and is subject to audit by ULL. Although I.E. Shaffer has responsibility for day-to-day claims processing, ULL makes the ultimate determination regarding benefits payable under the ULL policy. Moreover, I.E. Shaffer receives compensation for the

services it provides directly from the Fund; it receives no direct compensation from ULL.

INTERROGATORY NO. 7: Identify all communications either oral or in writing by and between yourself and any of the co-defendants or the plaintiffs which in any way relate to the subject matter of this litigation. For each such communication, state the subject of the communication, the date of the communication, and the identities of the individuals who participated in that communication.

ANSWER: A. I.E. Shaffer's business records reflect the following communications responsive to Interrogatory No. 7:

(1) Letter of January 22, 1988 from Glenn Shaffer to Daniel J. O'Sullivan. Subject: ULL handling of Rolnik matter.

(2) Letter of December 9, 1987 from Laura DeLong Shannon to Glenn D. Shaffer. Subject: ULL refusal to defend I.E. Shaffer.

(3) Letter of November 23, 1987 to Ms. Ettie Barsky from Glenn Shaffer. Subject: Rolnik lawsuit.

(4) Letter of July 27, 1987 to Joseph Rolnik from Glenn D. Shaffer. Subject: Follow-up to telephone conversation concerning charges submitted by Sheppard-Pratt relative to treatment rendered to Deborah Rolnik.

(5) Letter of June 4, 1987 from Ettie Barsky to William Cornell with Copy to Glenn Shaffer. Subject: ULL audit

(6) Letter of April 29, 1987 to William Cornell from Ettie Barsky with copy to Glenn Shaffer. Subject: Review of Deborah Rolnik's treatment.

(7) Letter of march 30, 1987 to Ms. Ettie Barsky from Glenn Shaffer. Subject: Pending bills of Deborah Rolnik.

(8) Letter of February 3, 1987 from Julie A. Carabelli to Sheppard-Pratt Physicians, P.A. Subject: Review of Rolnik claim.

(9) Letter of December 5, 1986 to David F. Wiater from Ms. Ettie Barsky. Subject: Applicability of

increase in major medical plan benefits to Deborah Rolnik.

(10) Undated, handwritten note from Ettie Barsky to David Wiater. Subject: Psychiatric review of Rolnik claim.

(11) Letter of August 5, 1986 from Sue Borowski to Sheppard-Pratt Medical Records Department with copy to David Wiater. Subject: Request for additional records pertaining to Deborah Rolnik.

(12) Letter of August 5, 1986 from Sue Borowski to David Wiater. Subject: Policy provisions.

(13) Letter of July 23, 1986 to Ettie Barsky from David Wiater. Subject: Referral of Rolnik current expenses.

(14) Letter of May 30, 1986 from Meg Guessford to David Wiater. Subject: Authorization for payment of Rolnik charges through January, 1986.

(15) Letter of April 28, 1986 from Julie A. Carabelli to Sheppard-Pratt Physicians, P.A. ("Michelle"). Subject: Payments issued directly to insured.

(16) Letter of April 28, 1986 from Julie A. Carabelli to Joseph Rolnik. Subject: Payments issued directly to Rolnik.

(17) Letter of April 15, 1986 from David F. Wiater to Karen Thomas. Subject: Deborah Rolnik progress.

(18) Letter of February 24, 1986 from Julie A. Carabelli to Sheppard-Pratt Physicians, P.A. Subject: Updated medical records pertaining to Deborah Rolnik.

(19) Letter of March 19, 1986 from Julie A. Carabelli to Sheppard-Pratt. Subject: Updated medical records pertaining to Deborah Rolnik.

(20) Letter of February 24, 1986 from Julie A. Carabelli to Sheppard-Pratt Physicians, P.A. Subject: Review of Deborah Rolnik file.

(21) Letter of December 16, 1985 from Joseph Rolnik to Julie A. Carabelli. Subject: Direct payment.

(22) Letter of December 10, 1985 from Julie A. Carabelli to Joseph Rolnik. Subject: Direct payment.

(23) Letter of December 10, 1985 from Julie A. Carabelli to Sheppard-Pratt Physicians, P.A. Subject: Direct payment.

(24) Letter of July 6, 1987 from Ettie Barsky to William Cornell with copy to Glenn Shaffer. Subject: Closing of file on ULL audit.

(25) Letter of January 21, 1987 from David Wiater to Ettie Barsky. Subject: Handling of Rolnik claim.

In addition, I.E. Shaffer has photocopies of many bills from Sheppard-Pratt and associated claim processing forms. These documents are too numerous to specifically enumerate.

B. Documents produced by the plaintiffs herein also memorialize the following additional "communications" which may fall within the purview of Interrogatory No. 17:

(1) Agreement between Joseph Rolnik and Sheppard-Pratt dated July 17, 1984.

(2) Telephone conversation of January 10, 1985 between Julie A. Carabelli and Sheppard-Pratt. Subject: Payments directly to Rolnik.

(3) Telephone conversation of February 12, 1985 between Sheppard-Pratt and Joseph Rolnik. Subject: Delinquency letters.

(4) Telephone conversation of March 6, 1985 between Sheppard-Pratt and Julie A. Carabelli. Subject: Payment of Rolnik claims.

(5) Telephone conversation of July 10, 1985, between Sheppard-Pratt and Julie A. Carabelli. Subject: Deductible.

(6) Telephone conversation of April 7, 1986 between Sheppard-Pratt and Julie A. Carabelli. Subject: Rolnik claim.

(7) Telephone conversation of May 8, 1986 between Sheppard-Pratt and Zachary Rolnik. Subject: Financial responsibility form.

(8) Telephone conversation of August 4, 1986 between Sheppard-Pratt and Ettie Barsky. Subject: Coverage questions.

(9) Telephone conversation of October 1, 1986 between Sheppard-Pratt and Julie A. Carabelli. Subject: ULL review.

(10) Telephone conversation of October 20, 1986 between Sheppard-Pratt and Julie A. Carabelli. Subject: ULL review.

(11) Telephone conversation of November 4, 1986 between Sheppard-Pratt and Julie A. Carabelli. Subject: ULL review.

(12) Telephone conversation of November 5, 1986 between Sheppard-Pratt and Ettie Barsky. Subject: Coverage of Rolnik claim

(13) Telephone conversation of November 20, 1986 between Sheppard-Pratt and Ettie Barsky. Subject: ULL review.

(14) Telephone conversation of December 2, 1986 between Sheppard-Pratt and Julie A. Carabelli. Subject: ULL review.

(15) Telephone conversation of December 2, 1986 between Sheppard-Pratt and Ettie Barsky. Subject: ULL denial of coverage.

(16) Telephone conversation of December 2, 1986 between Sheppard-Pratt and Ettie Barsky. Subject: ULL review.

(17) Telephone conversation of January 9, 1987 between Sheppard-Pratt and Julie A. Carabelli and David Wiater. Subject: Difficulty in dealing with Ettie Barsky.

(18) Telephone conversation of January 16, 1987 between Sheppard-Pratt and Tom Kiley. Subject: ULL review.

(19) Telephone conversation of February 9, 1987 between Sheppard-Pratt and Tom Kiley. Subject: Insurance Commissioner.

(20) Telephone conversation of February 13, 1987 between Sheppard-Pratt and Julie A. Carabelli. Subject: Date for completion of ULL review.

(21) Telephone conversation of March 3, 1987 between Sheppard-Pratt and David Wiater. Subject: Contacting Tim Newton at ULL.

(22) Telephone conversation of April 1, 1987 between Sheppard-Pratt and Julie A. Carabelli. Subject: Status of Rolnik claim.

(23) Telephone conversation of April 10, 1987 between Sheppard-Pratt, Julie A. Carabelli and David Wiater. Subject: ULL review.

(24) Telephone conversation of April 20, 1987 between Sheppard-Pratt and Ettie Barsky. Subject: ULL review.

INTERROGATORY NO. 8: Identify those persons known to have given statements concerning the occurrence which have been recorded or reduced to writing, the date of each such statement, and the name and address of the person who took such statement, and the names and addresses of all persons having custody of the original or copies thereof.

ANSWER: None. To the extent that the writings and telephone conversations identified in the Answer to Interrogatory No. 7 constitute "statements", the same are incorporated herein by reference.

INTERROGATORY NO. 9: State the facts upon which you base your contention, set forth in paragraph 38 of your answer to First Amended Complaint, that the plaintiffs were contributorily negligent.

ANSWER: The plaintiffs may have kept Deborah Rolnik hospitalized at Sheppard-Pratt after learning that coverage for the hospitalization was questionable. To the extent that they did so, they were contributorily negligent and/or assumed the risk of their alleged injuries and damages. I.E. Shaffer's

investigation is continuing and it reserves the right to supplement and/or amend this Answer based upon other and further information developed through investigation and/or discovery.

INTERROGATORY NO. 10: State the facts upon which you base your contention, set forth in paragraph 39 of the answer to First Amended Complaint, that the plaintiffs assumed the risk of their alleged injuries and damages.

ANSWER: See Answer to Interrogatory No. 9, which is incorporated herein by reference.

INTERROGATORY NO. 11: If you contend that the treatment received by Deborah Rolnik while hospitalized at the Sheppard & Enoch Pratt Hospital was, at any time, non-covered under the policy of insurance between the Trustees of the Hudson County Carpenter's Welfare Fund and Union Labor Life Insurance Company, state the operable time period during which Deborah Rolnik's treatment was non-covered under the policy and, state all facts which support your contention.

ANSWER: I.E. Shaffer does so contend, however, all decisions with respect to the medical necessity for Deborah Rolnik's continued treatment were made by ULL, not I.E. Shaffer. To the extent that Deborah Rolnik's continued hospitalization was not "medically necessary" the treatment was not covered under the policy of insurance. See report of Dr. D'Agostino which previously was provided by counsel for ULL.

INTERROGATORY NO. 12: State the date on which it was decided that Deborah Rolnik's treatment at the Sheppard Enoch Pratt Hospital should be reviewed, the basis for that decision, the name, business address, and telephone number of all persons involved in the making of that decision, and, set out in detail the action taken in response to that decision.

ANSWER: In February, 1986, I.E. Shaffer referred Deborah Rolnik's case to ULL for review. The major basis for the referral to ULL for review was the length of Deborah Rolnik's confinement at Sheppard-Pratt. Persons involved in the decision to refer the file for review include Julie A. Carabelli Immordino, David F. Wiater and Glenn D. Shaffer. I.E. Shaffer continued to process and pay claims made on the Rolnik file during the pendency of the review until it was instructed to no longer do so by ULL.

INTERROGATORY NO. 13: If you contend that you are employed by the Trustees of the Hudson County Carpenter's Welfare Fund as plan administrator for the insurance policy between the Trustees and Union Labor Life Insurance Company, state with particularity the scope of your authority to act on behalf of either the trustees or Union Labor Life Insurance company and any limitations upon such authority.

ANSWER: See Answer to Interrogatory No. 6, which is incorporated herein by reference.

INTERROGATORY NO. 14: Do you deny that one of your employees during the course of Deborah Rolnik's hospitalization, informed a representative(s) and/or others that the coverage available to Deborah Rolnik under the policy issued by Union Labor Life Insurance Company had been increased from \$100,000.00 to \$1,000,000.00? If not, give a concise statement of facts as to all such individual involved in those communications and the dates thereof. Identify all documents in any way related to those communications.

ANSWER: I.E. Shaffer's business records do not memorialize the alleged representation set forth in Interrogatory No. 14, but I.E. Shaffer does not deny that the representation may have been made.

Effective April 1, 1985 the Major Medical Maximum under the Fund's policy was increased from \$100,000 to \$1,000,000 at the request of the Trustees of the Fund. Although not specifically requested by the Trustees, ULL inserted the following language into the policy:

A person or a dependent who was confined to a hospital or who has incurred Covered Major Medical charges at any time during the three months immediately preceding the effective date of the increase in the Major Medical maximum shall not be eligible for the increased maximum amount until the expiration of twelve consecutive months from the date of such increase.

The Summary Plan description prepared by ULL and distributed to all participants made no mention of the restriction quoted above. Rather the Summary Plan Description simply indicated that the maximum was \$1,000,000 as of April 1, 1985.

Moreover, ULL reviewed the Rolnik claim and approved payment for all charges through January, 1986 by their letter dated May 30, 1986, which put the total payments well over the purported \$100,000 maximum. Thus, ULL took the position de facto that the \$100,000 maximum was not a basis for denial of coverage for Deborah Rolnik's claims.

In December, 1986, ULL advised I.E. Shaffer of the policy provision limiting the maximum benefit to \$100,000, but also indicated that the case was being referred to a psychiatrist for review. Ultimately, ULL denied the claim on the basis that Deborah Rolnik's hospitalization was not

"medically necessary." There was no mention of the policy limit at the time the claim was denied.

Finally, even if the policy provision restricting the major medical maximum was applied in the manner now advanced by ULL, Deborah Rolnik is entitled to the \$1,000,000 maximum for claims incurred on or after April 1, 1986. Accordingly, by approving payments for Deborah Rolnik's hospitalization through January, 1986 and by failing to raise the major medical maximum as a basis for their denial of coverage, ULL de facto found that the major medical maximum was not a basis for denial of coverage to Deborah Rolnik.

INTERROGATORY NO. 15: Identify all person not heretofore named in your answers to these Interrogatories who have personal knowledge of facts (a) concerning the happening of the occurrence or (b) your injuries, losses and damages. Specify in which category each such person has knowledge.

ANSWER: No additional persons are known to I.E. Shaffer at this time.

I HEREBY SWEAR AND AFFIRM UNDER PENALTY OF PERJURY THAT THE FOREGOING ANSWERS TO INTERROGATORIES ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I.E. SHAFFER & COMPANY

By: 

Glenn D. Shaffer
President

James R. Eyler HC
James R. Eyler

Kristine A. Crosswhite

Kristine A. Crosswhite
MILES & STOCKBRIDGE
10 Light Street
Baltimore, Maryland 21202
(301) 727-6464

Attorneys for Defendant,
I.E. Shaffer & Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December,
1988, a copy of the foregoing ANSWER TO INTERROGATORIES was
mailed, first class postage prepaid, to:

Mark T. Mixer, Esquire
SMITH, SOMERVILLE & CASE
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
SEMMES, BOWEN & SEMMES
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
PIPER & MARBURY
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Kristine A. Crosswhite
Kristine A. Crosswhite

FILED

DEC 15 1988

CIRCUIT COURT FOR
BALTIMORE CITY.

JOSEPH ROLNIK, et al., * IN THE
Plaintiffs, * CIRCUIT COURT
v. * FOR
THE UNION LABOR LIFE * BALTIMORE CITY
INSURANCE COMPANY, et al., *
Defendants. * Case No. 87313071/CL73531
* * * * *

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS

Defendant, I.E. Shaffer & Company ("I.E. Shaffer"), by its attorneys, James R. Eyler and Kristine A. Crosswhite, pursuant to Rule 2-422 of the Maryland Rules of Procedure, responds to the plaintiff's Request for Production of Documents and states:

REQUEST NO. 1: Your complete file concerning Deborah Rolnik, d/o Joseph; d.o.s.: 7/17/84-1987; patient no. 39474-2, policy no.: C-2023.

RESPONSE: I.E. Shaffer objects to Request No. 1 to the extent that it purports to require production of materials pertaining to Deborah Rolnik, if any, which are not relevant to the hospitalization giving rise to this litigation. Without waiving the foregoing objection, I.E. Shaffer will produce its complete file on Deborah Rolnik pertaining to her hospitalization at Sheppard & Enoch Pratt Hospital ("Sheppard-Pratt") which is the subject of this litigation.

REQUEST NO. 2: Any and all correspondence received from or directed to the defendant, The Sheppard & Enoch Pratt Hospital, Inc.

RESPONSE: I.E. Shaffer objects to Request No. 2 on the ground that it is overly broad as phrased. Specifically, the Request, as phrased, required the production of all correspondence between I.E. Shaffer and Sheppard Pratt regardless of whether the correspondence relates to the hospitalization giving rise to this lawsuit. Without waiving the foregoing objection, I.E. Shaffer states that it will produce all non-privileged correspondence between itself and Sheppard Pratt relating to the hospitalization giving rise to this litigation.

REQUEST NO. 3: Any and all correspondence directed to or received from the defendant, Union Labor Life Insurance Company, concerning an insurance policy issued to Joseph Rolnik and providing insurance benefits to Deborah Rolnik for treatment provided by the Sheppard & Enoch Pratt Hospital, Inc.

RESPONSE: The documents requested will be produced.

REQUEST NO. 4: Any and all correspondence directed to or received from the Plaintiff, Joseph Rolnik, concerning an insurance policy issued to Joseph Rolnik and providing insurance benefits to Deborah Rolnik for treatment provided by the Sheppard & Enoch Pratt Hospital, Inc.

RESPONSE: The documents requested will be produced.

REQUEST NO. 5: Any and all reports prepared by any expert whom you intend to call as a witness at the trial of this case.

RESPONSE: I.E. Shaffer currently has no reports falling within the purview of Request No. 5 with the exception of the report of Dr. D'Agostino. The report of Dr. D'Agostino previously was provided by counsel for ULL. To the extent that I.E. Shaffer obtains additional expert reports, the same will be provided.

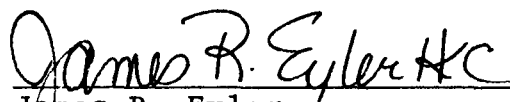
REQUEST NO. 6: Any and all statements, correspondence, memoranda, notes, contracts, reports, etc. relative to

your employment by the Trustees of the Hudson County Carpenter's Welfare Fund as plan administrator of the insurance policy between the Trustees and Union Labor Life Insurance Company.

RESPONSE: I.E. Shaffer objects to Request No. 6 as phrased and refuses to produce the requested documents. The basis for the objection is that Request No. 6 is overly broad and unlimited as to time. As phrased, Request No. 6 requires I.E. Shaffer to produce all documents pertaining to the relationship between I.E. Shaffer and the Trustees of the Hudson County Carpenter's Welfare Fund without any limitation to issues relevant to this case. Without waiving the foregoing objection, if the plaintiffs will refine their Request and properly limit the same, I.E. Shaffer will attempt to provide responsive documents.

REQUEST NO. 7: All statements, correspondence, notes, memoranda, contracts, etc. which establish, delineate, or otherwise limit the authority granted to you to act on behalf of either the Trustees of the Hudson County Carpenter's Welfare Fund or Union Labor Life Insurance Company.

RESPONSE: I.E. Shaffer objects to Request No. 7 and incorporates by reference herein its Response to Request No. 6. that the major medical maximum was not a basis for denial of coverage to Deborah Rolnik.


James R. Eyler

Kristine A. Crosswhite

Kristine A. Crosswhite
MILES & STOCKBRIDGE
10 Light Street
Baltimore, Maryland 21202
(301) 727 6464

Attorneys for Defendant,
I.E. Shaffer & Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December, 1988, a copy of the foregoing **RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS** was mailed, first class postage prepaid, to:

Mark T. Mixter, Esquire
SMITH, SOMERVILLE & CASE
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
SEMMES, BOWEN & SEMMES
401 Washington Avenue
Post Office Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
PIPER & MARBURY
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Kristine A. Crosswhite

Kristine A. Crosswhite

43-28

JOSEPH ROLNIK and
DEBORAH ROLNIK

Plaintiff

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAEFER

Defendants

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

* * * * *

PLAINTIFFS' ANSWER TO COUNTER-CLAIM OF
UNION LABOR LIFE INSURANCE COMPANY

Now comes the defendants and counter-defendants, Joseph Rolnik and Deborah Rolnik by their attorneys, Mark T. Mixter and Smith, Somerville & Case and files this answer to the counter-claim asserted by Union Labor Life Insurance Company in each and every count thereof:

1. That these plaintiffs and counter-defendants generally deny that they are liable in the manner alleged.
2. That the counter-plaintiff was guilty of contributory negligence.
3. That the counter-plaintiff was guilty of assumption of the risk.
4. The counter-claim fails to state a claim upon which relief can be granted.
5. That Deborah Rolnik denies that she has the capacity to be sued in the manner alleged.
6. That Deborah Rolnik denies execution of the written instrument that is the subject matter of the counter-claim.

FILED
NOV 30 1988
CIRCUIT COURT FOR
BALTIMORE CITY

7. That the counter-plaintiffs' claim is barred by the doctrine of estoppel.

8. That the counter-claimants' claim is barred by fraud.

9. That the counter-claimants' claim is barred by illegality.

10. That the counter-claimants' claim is barred by the doctrine of laches.

11. That the counter-claimants' claim is barred by the doctrine of waiver.

Mark T. Mixer

Mark T. Mixer

Smith, Somerville & Case

Smith, Somerville & Case
100 Light Street, Sixth Floor
Baltimore, Maryland 21202
(301) 727-1164

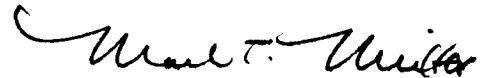
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this *29th* day of *November*, 1988 that a copy of the plaintiffs' answer to counter-claim of Union Labor Life Insurance Company was mailed to:

James R. Eyler, Esquire
Kristine A. Crosswhite, Esquire
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Post Office Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201



Mark T. Mixer

JOSEPH ROLNIK and
DEBORAH ROLNIK

Plaintiff

v.

UNION LABOR LIFE INSURANCE
COMPANY, SHEPPARD & ENOCH
PRATT HOSPITAL & I.E.
SHAEFER

Defendants

IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

87313071/CL73531

FILED

NOV 30 1988

CIRCUIT COURT FOR
BALTIMORE CITY

* * * * *

PRAYER FOR JURY TRIAL

The plaintiffs and counter-defendants request that the counter-claim of Union Labor Life Insurance Company be tried to a jury.

Mark T. Mixter
Mark T. Mixter

Smith, Somerville & Case
Smith, Somerville & Case
100 Light Street, Sixth Floor
Baltimore, Maryland 21202
(301) 727-1164

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of November, 1988 a copy of the foregoing prayer for jury trial was mailed to:

James R. Eyler, Esquire
Kristine A. Crosswhite, Esquire
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
Post Office Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201



Mark T. Mixter

42

JOSEPH ROLNIK, ET AL
PLAINTIFF

VS.


THE UNION TRUST LABOR LIFE
INSURANCE CO., ET AL
DEFENDANTS

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* 87313071/CL73531
*

ORDER

IT IS THIS 18TH DAY OF NOVEMBER, 1988, ORDERED THAT THE PLAINTIFF'S
MOTION TO DISMISS THE COUNTER-CLAIM IS DENIED.

AND IT IS FURTHER ORDERED THAT THE DEFENDANT UNION LABOR LIFE'S MOTION
TO DISMISS CLAIM FOR PUNITIVE DAMAGES IS GRANTED AS TO THE FIRST AMENDED
COMPLAINT.



THOMAS E. NOEL

CC: ALL COUNSEL

AG

FILED

SEP 27 1988

JOSEPH ROLNIK, et al.,

CIRCUIT COURT FOR IN THE
BALTIMORE CITY

Plaintiffs,

CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,

* BALTIMORE CITY

Defendants.

* Case No. 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION

Defendant, I. E. Shaffer & Company, by its attorneys,
James R. Eyler and Kristine A. Crosswhite, states that they
will take the deposition of the following named person before a
Notary Public or some other officer duly authorized to
administer an oath at the law offices of Miles & Stockbridge,
10 Light Street, Suite 1200, Baltimore, Maryland 21202 on
October 26, 1988 at 12:00 p.m. and to continue thereafter until
completed:

Kathryn Gallagher
6501 North Charles Street
Baltimore, Maryland 21285

James R. Eyler
James R. Eyler

Kristine A. Crosswhite
Kristine A. Crosswhite
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202
(301) 727-5464

Attorneys for Defendant,
I. E. Shaffer & Company

41
8/2

8

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 1988, a copy of the foregoing Notice to Take Deposition and Subpoena was mailed, first class, postage prepaid to:

Mark T. Mixter, Esquire
Smith, Somerville & Case
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Kristine A. Crosswhite
Kristine A. Crosswhite

A:AE032107.NOD

FILED

SEP 27 1988

40
S.W.

JOSEPH ROLNIK, et al.,

CIRCUIT COURT FOR
BALTIMORE CITY, THE

Plaintiffs,

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,

* BALTIMORE CITY

Defendants.

* Case No. 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION

Defendant, I. E. Shaffer & Company, by its attorneys,
James R. Eyler and Kristine A. Crosswhite, states that they
will take the deposition of the following named person before a
Notary Public or some other officer duly authorized to
administer an oath at the law offices of Miles & Stockbridge,
10 Light Street, Suite 1200, Baltimore, Maryland 21202 on
October 26, 1988 at 10:00 a.m. and to continue thereafter until
completed:

Ettie Barsky
111 Massachusetts Avenue, N.W.
Washington, D.C. 20001

James R. Eyler HRC
James R. Eyler

Kristine A. Crosswhite
Kristine A. Crosswhite
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202
(301) 727-6464

Attorneys for Defendant,
I. E. Shaffer & Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 1988, a copy of the foregoing Notice to Take Deposition and Subpoena was mailed, first class, postage prepaid to:

Mark T. Mixer, Esquire
Smith, Somerville & Case
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201


Kristine A. Crosswhite

A:AE032105.NOD

FILED

SEP 27 1988

39
8/2

JOSEPH ROLNIK, et al.,

CIRCUIT COURT FOR THE
BALTIMORE CITY

Plaintiffs,

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,

* BALTIMORE CITY

Defendants.

* Case No. 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION

Defendant, I. E. Shaffer & Company, by its attorneys,
James R. Eyler and Kristine A. Crosswhite, states that they
will take the deposition of the following named person before a
Notary Public or some other officer duly authorized to
administer an oath at the law offices of Miles & Stockbridge,
10 Light Street, Suite 1200, Baltimore, Maryland 21202 on
October 25, 1988 at 2:00 p.m. and to continue thereafter until
completed:

Zachary Rolnik
10 President's Lane
Apartment 9
Quincy, Massachusetts

James R. Eyler KC
James R. Eyler

Kristine A Crosswhite
Kristine A. Crosswhite
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202
(301) 727-6464

Attorneys for Defendant,
I. E. Shaffer & Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 1988, a copy of the foregoing Notice to Take Deposition and Subpoena was mailed, first class, postage prepaid to:

Mark T. Mixter, Esquire
Smith, Somerville & Case
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Kristine A. Crosswhite
Kristine A. Crosswhite

A:AE032109.NOD

8/28/88
S.W.

FILED

SEP 27 1988

CIRCUIT COURT FOR
BALTIMORE CITY

JOSEPH ROLNIK, et al.,

Plaintiffs,

v.

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No. 87313071/CL73531
*

* * * * *

NOTICE TO TAKE DEPOSITION

Defendant, I. E. Shaffer & Company, by its attorneys,
James R. Eyler and Kristine A. Crosswhite, states that they
will take the deposition of the following named person before a
Notary Public or some other officer duly authorized to
administer an oath at the law offices of Miles & Stockbridge,
10 Light Street, Suite 1200, Baltimore, Maryland 21202 on
October 25, 1988 at 12:00 p.m. and to continue thereafter until
completed:

Deborah Rolnik
2712 Maryland Avenue
Baltimore, Maryland 21218

James R. Eyler HC
James R. Eyler

Kristine A. Crosswhite
Kristine A. Crosswhite
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202
(301) 727-6464

Attorneys for Defendant,
I. E. Shaffer & Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 1988, a copy of the foregoing Notice to Take Deposition and Subpoena was mailed, first class, postage prepaid to:

Mark T. Mixer, Esquire
Smith, Somerville & Case
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

Kristine A. Crosswhite
Kristine A. Crosswhite

SEP 27 1988

8/27

JOSEPH ROLNIK, et al.,

CIRCUIT COURT
BALTIMORE IN: THE

Plaintiffs,

* CIRCUIT COURT

v.

* FOR

THE UNION LABOR LIFE
INSURANCE COMPANY, et al.,

* BALTIMORE CITY

Defendants.

* Case No. 87313071/CL73531

*

* * * * *

NOTICE TO TAKE DEPOSITION

Defendant, I. E. Shaffer & Company, by its attorneys, James R. Eyler and Kristine A. Crosswhite, states that they will take the deposition of the following named person before a Notary Public or some other officer duly authorized to administer an oath at the law offices of Miles & Stockbridge, 10 Light Street, Suite 1200, Baltimore, Maryland 21202 on October 25, 1988 at 10:00 a.m. and to continue thereafter until completed:

Joseph Rolnik
15919 Forsythia Circle
Delray Beach, Florida 33445

James R. Eyler HC

James R. Eyler

Kristine A. Crosswhite

Kristine A. Crosswhite
Miles & Stockbridge
Suite 1200
10 Light Street
Baltimore, Maryland 21202
(301) 727-6464

Attorneys for Defendant,
I. E. Shaffer & Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of September, 1988, a copy of the foregoing Notice to Take Deposition and Subpoena was mailed, first class, postage prepaid to:

Mark T. Mixter, Esquire
Smith, Somerville & Case
100 Light Street
6th Floor
Baltimore, Maryland 21202

Thomas M. Trezise, Esquire
Gary M. Burke, Esquire
Semmes, Bowen & Semmes
401 Washington Avenue
P.O. Box 6705
Towson, Maryland 21285

Kenneth L. Thompson, Esquire
Lettie Moses, Esquire
Piper & Marbury
1100 Charles Center South
36 South Charles Street
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MSA SC 5458-82-152

Dates: 2010/02/17

Description: Case numbers received from J. Hollander -

BALTIMORE CITY CIRCUIT COURT (Paternity Papers) Arrington v. Rodriguez, 1989, Box 169
 Case No. 119070 [MSA T3351-923, CW/16/31/25]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Rolnik v. Union Labor Life Ins. Co., 1987, Case No. 87313071
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 Box 387 [MSA T2691-2026, HF/8/35/8]
 Box 388 [MSA T2691-2027, HF/8/35/9]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack Co., Box 128 Case No. 88102069 [MSA T2691-2232, HF/11/30/3]
 See also for "brick binders":
 Box 527 [MSA T2691-2631, HF/11/38/18]
 Box 528 [MSA T2691-2632, HF/11/38/19]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Attorney Grievance Commission v. Yacono, 1992, Box 1953 Case No. 92024055 [MSA T2691-4591, OR/12/14/65]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Feldmann v. Coleman, 1993, Box 391 Case No. 93203022 [MSA T2691-5466, OR/22/08/037]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Jefferson v. Ford Motor Credit Corp., 1993, Box 470 Case No. 93251040 [MSA T2691-5545, OR/22/10/20]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack Co. and Blum, Yumkas, Mailman, 1993, Box 518 Case No. 93285087 [MSA T2691-5593, OR/22/11/20]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Scott v. Dept. of Public Safety, 1993, Box 603 Case No. 93342002 [MSA T2691-5679, OR/22/13/11]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Stubbins v. Md. Parole Comm'n., 1993, Box 616 Case No. 93354003 [MSA T2691-5692, OR/22/13/24]
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Fitch v. DeJong, 1994, Box 109 Case No. 94077005 [MSA T2691-5817, OR/28/9/2]
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Redmond, 1988, Box 191 Case No. 48828071 [MSA T3372-1282, HF/11/23/43]
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Parker, 1990 Box 100 Case Nos. 290213034,35 [MSA T3372-1476, OR/16/16/8]
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BALTIMORE CITY CIRCUIT COURT (Criminal Transcripts) State v. Monk, 1991, Box 78 Case No. 591277019 [MSA T3657-403, OR/17/11/21]
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BALTIMORE CITY CRIMINAL COURT (Transcripts) Eraina Pretty, 1978, Box 43 Case Nos. 57811846, 57811847, 57811848, 57811858, 57811859, 57811860 [MSA T496-3990, OR/18/22/41]
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BALTIMORE CITY CIRCUIT COURT (Criminal Papers) State v. Johnson (or Johnson-Bey), 1987, Box 11 Case No. 28701917 [MSA T3372-853, CW/2/20/26]

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