

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BANNER LIFE INSURANCE )  
COMPANY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KAREN BRAZIL f/k/a KAREN BRAZIL )  
BREASHEARS, GWENDA WALTERS- )  
BREASHEARS, N.S.B (a minor), and the )  
ESTATE of JAMES E. BREASHEARS, )  
 )  
Defendants. )

Case No. 1:18-cv-03850-SJC-SIS

**BANNER LIFE INSURANCE COMPANY’S  
MOTION FOR FINAL JUDGMENT ORDER IN INTERPLEADER**

Banner Life Insurance Company (“Banner”), by its attorneys, Donald A. Murday and Sara G. Janes, of Chittenden, Murday & Novotny, LLC, states as follows for its Motion for Final Judgment Order in Interpleader:

1. On June 1, 2018, Banner filed its Complaint for Interpleader pursuant to Fed. R. Civ. P. 22 and 28 U.S.C. § 1332(a) to resolve competing claims to the proceeds of a life insurance policy, No. 180254211 (the “Policy”), insuring the life of James E. Breashears. (*See* Complaint for Interpleader, Docket No. 1)

2. Banner deposited its admitted liability in the amount of \$270,884.81 that is in dispute into the Registry of this Court, subject to this Court’s further orders as to whom among the Defendants is entitled to receive those proceeds. A true and correct copy of the receipt for said deposit is attached hereto as Exhibit A.

3. Defendants Karen Brazil f/k/a Karen Brazil Breashears (“Karen”), Gwenda Walters-Breashears (“Gwenda”), individually and as Independent Executor of the Estate of

James E. Breashears (the “Estate”), and N.S.B., a minor child, are adverse claimants to Policy proceeds. Each Defendant has either been defaulted or filed an Answer. (*See* Docket Nos. 38, 40, 43, 44).

4. Banner filed its Complaint for Interpleader in good faith and has done all that is required by law to perfect its interpleader action.

5. Banner has properly served a copy of this Motion for Final Judgment Order in Interpleader on the Defendants.

6. Banner has incurred over \$12,157 in attorney fees and costs in bringing this action (\$11,579 in attorney fees and \$578 in costs).

7. Banner hereby incorporates as if fully set forth herein the arguments and authorities set forth in its Memorandum in Support of the instant Motion, filed contemporaneously herewith.

8. Banner submits its proposed Final Judgment Order in Interpleader to the Court via email, in accordance with this Court’s case management procedures.

WHEREFORE, Plaintiff, Banner Life Insurance Company, respectfully requests that this Court enter an order:

- A. Granting judgment in favor of Banner and against Defendants, Karen Brazil, Gwenda Walters-Breashears, individually and as Independent Executor of the Estate of James E. Breashears, and N.S.B. (a minor);
- B. Releasing and discharging Banner, its successors, assigns, representatives, agents, attorneys, and all of its affiliated companies, including officers, directors, and employees from any and all liability under Policy No. 180254211, or arising on account of the death of James E. Breashears, or any or all of the Defendants, Karen Brazil, Gwenda Walters-Breashears, individually and as Independent Executor of the Estate of James E. Breashears, and N.S.B. (a minor), or any person or entity claiming through them;
- C. Permanently and perpetually restraining and enjoining Defendants, Karen Brazil, Gwenda Walters-Breashears, individually and as Independent Executor of the Estate

of James E. Breashears, and N.S.B. (a minor), or any person or entity claiming through them, from commencing or prosecuting any proceeding or claim against Banner in any state or federal court or other forum with respect to the proceeds payable under Policy No. 180254211, or on account of the death of James E. Breashears and that this injunction issue without bond or surety;

- D. Excusing Banner from further attendance in this cause and dismissing Banner with prejudice from this cause with an express finding that, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, there is no just reason for delaying either enforcement or appeal of this Order or both;
- E. Requiring Defendants to litigate their entitlement to the proceeds of the Policy among themselves without further involving Banner; and
- F. Awarding Banner \$12,157 in attorney fees and costs incurred in bringing this action; and
- G. Granting Banner such other and further relief as this Court deems just and appropriate.

Dated: **January 18, 2019.**

Respectfully submitted,

CHITTENDEN, MURDAY & NOVOTNY, LLC.

By: /s/ Sara G. Janes  
One of the Attorneys for Plaintiff  
Banner Life Insurance Company

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**CERTIFICATE OF SERVICE**

I hereby certify that on **January 18, 2019**, I electronically filed the foregoing **Banner Life Insurance Company's Motion for Final Judgment Order in Interpleader** herein with the Clerk of the United States District Court, Northern District of Illinois, Eastern Division, using the CM/ECF system, which sent notification of such filing to the following registered CM/ECF participants:

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*Attorney/GAL for Minor Defendant N.S.B.*

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/s/ Sara G. Janes