

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

**BANNER LIFE INSURANCE
COMPANY,**

Plaintiff

v.

CIVIL NO. 2:11cv198

**JOHN W. BONNEY as Administrator of
the ESTATE OF CLYDE B.
PITCHFORD, JR., et al.,**

Defendant.

ORDER

The Judgment and Order entered on July 19, 2013 as a result of the hearing on July 18, 2013 is hereby **STAYED** and **VACATED** until September 12, 2013 at which time it may be reentered with changes, or reentered prior thereto with changes, or reentered without any changes depending upon the hearing of September 10, 2013.

This cause came on this date to be heard on information provided to the Court by various parties to this case who indicated that they did not receive a copy of the Order entered on July 9, 2013 requiring that everyone make a claim, or have their counsel make a claim and be present on July 18, 2013, either individually or by counsel, or their claim would be denied. However, several individuals have now claimed that they did not receive a copy of the Order entered on July 9, 2013, or even on the Order entered on January 17, 2013, although they received a copy of the Order dated July 19, 2013, disbursing the funds. Moreover, some individuals did not appear on January 28, 2013 or on July 18, 2013. However, in a sense of justice, it becomes necessary to **STAY** the Judgment entered on July 19, 2013 and **VACATE** it. Since it may become necessary

to adjust the awards of the parties named in the Order of July 19, 2013.

Accordingly, it is hereby **ORDERED** that all parties appear in person or by counsel on **September 10, 2013 at 10:00 a.m.** as a hearing will take place which may require the reapportionment of money depending upon proof that other parties are entitled to some of the proceeds who claim not to have received any notification of the requirement to appear or for other causes alleging that the Court failed to consider their claims.

Accordingly it is hereby **ORDERED** that all parties appear either in person or by counsel, on **September 10, 2013 at 10:00 a.m.** for a hearing that will take place which may require the reapportionment of the award depending upon proof that other parties are entitled to some of the proceeds of the insurance policy who claim not to have received notification although they have proof of their assignment and monies disbursed with evidence of the indebtedness by the insured.

Accordingly it is hereby **ORDERED** that all parties appear either in person or by counsel to protect their interests in this matter or be subject to having their claims adjusted should someone not listed in the Order of July 19, 2013, be entitled to some of the proceeds. It may require an adjustment of \$850,000.00 of the proceeds by each and every individual other than Gail Beasley and Michael Barchi, Jr. Thus, awards may be made in order to accommodate those parties who were not present on July 18, 2013, if they are entitled to a portion of the award.

Accordingly anyone who fails to appear on **September 10, 2013 at 10:00 a.m.** in this Court may have their awards adjusted depending upon the proof offered by those claiming not to have received notice of the requirements of the Orders of January 17, 2013 and July 9, 2013 and are entitled to an award. Those who had awards listed in the now vacated Order of July 19, 2013, by not appearing on September 10, 2013, agree that any adjustment to their award that


may be necessary by the Court can be made without their presence so long as the adjustments is universal to all awardees, except Gail Beasley and Michael Barchi, Jr. whose awards will be unchanged. Thus \$850,000.00 of the award will be readjusted if necessary to those parties who previously had an award according to the Order of July 19, 2013, which is now vacated. Each person who claims to have been left out of the previous award will have to offer proof and be ready to testify as to why they are entitled to set aside the prior award and why they have received copies of some orders and not received copies of other orders of this Court and why they have not made inquiry of the matter to determine what was happening when they represented themselves and be able to offer proof of their claims with specificity.

It is further **ORDERED** that any person who claims to have not been properly awarded a sum who had not received notice and claims to be entitled to an award, must file with this Court its claim with specifics by **August 21, 2013 at 12:00 Noon** showing a complete breakdown of how and what their claim is and what it is based upon and how and why they had no notice of the Orders entered on January 17, 2013 and July 9, 2013, requiring appearance must be present and prepared to testify in person in this Court on **September 10, 2013 at 10:00 a.m.** Any failure to do so will be deemed to be an abandonment of their claim.

The Clerk is **DIRECTED** to forward a copy of this Order to Counsel of Record and all other parties.

IT IS SO ORDERED.

Norfolk, VA
July 25, 2013



Robert G. Doumar
Senior United States District Judge