

In the issue the Fidelity Trusts Co. are plaintiffs and Buchner defendant.

The plaintiffs affirm and the defendant denies:

"1. That . . . infant children of Lucy Hendershot . . . are the designated preferred beneficiaries of their grandfather . . . T. H. Rhoder, by certificate, . . . issued by . . . the Royal Arcanum . . .

"2 That the plaintiffs, as next friend to the said infants . . . are entitled to payment out of Court of the said sum.

"3. That in the alternative . . . the plaintiffs as administrators . . . of . . . T. R. Rhoder, are entitled to the said sum, notwithstanding the endorsement dated the 6th day of July, 1909, on the said certificate in favour of the said defendant, in that the said endorsement was not read to or by the said T. R. Rhoder, and was ignored and treated as null and void by both the said T. R. Rhoder and the defendant, until the death of the said T. R. Rhoder . . .

And the defendant affirms and the plaintiffs deny:

"1. That the said defendant is the owner of the . . . certificate, and entitled to the proceeds . . . paid into Court by virtue of the fact that the said insurance certificate is personal property reduced into possession by the defendant and owned by him as an innocent purchaser for value and by virtue of an endorsement upon the said certificate made by T. R. Rhoder to . . . Buchner for value.

"2. That the defendant is entitled to the said sum paid into Court as the proceeds of the said certificate."

The claim on behalf of the infants is based upon the rules of the Society: sec. 332, says: "In the event of the death of all the beneficiaries designated . . . before the decease of such member, if he shall have made no other or farther disposition thereof, as provided in the Laws of the Order, the benefit shall be disposed of as provided in sec. 330 . . ." As sec. 326 provides that a certificate shall not be made payable to a creditor or be held or assigned in whole or in part to secure or pay any debt which may be owing by the member; and sec. 327 provides that any assignment of a benefit certificate by a member shall be void; it is argued for the plaintiffs that the member has not made a disposition "as provided by the rules of the Order" and