

FILED

OCT 25 2007

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2006-CA-01105

COPIES

**THE PRUDENTIAL INSURANCE COMPANY OF
AMERICA and PRUCO LIFE INSURANCE COMPANY**

Appellants/Defendants

vs.

**PATTY STEWART, SALLY STEWART HESTER, GILES STEWART,
and LARRY STEWART, Individually and as Co-Executors of the Estate of
Edsel Stewart; and LARRY STEWART and GILES STEWART as
Co-Trustees of THE STEWART FAMILY LIFE INSURANCE TRUST**

Appellees/Plaintiffs

MOTION FOR ORAL ARGUMENT

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ATTORNEYS FOR APPELLEES

MOTION# 2007-3023

MOTION FOR ORAL ARGUMENT

COMES NOW Plaintiffs and move this Court to suspend the portion of Rule 40, Mississippi Rules of Appellate Procedure, disallowing oral argument and pursuant to Rule 2(c) grant oral argument on this Motion for Rehearing on the grounds that the Opinion rendered by this Court on September 27, 2007 substantially impacts and does violence to the right of trial by jury as guaranteed to all citizens by the Seventh Amendment to the Constitution of the United States and Section 31 of the Constitution of the State of Mississippi and would show that Plaintiffs have not had a reasonable opportunity to argue the fundamental constitutional principles before this Court and that justice requires that this essential right of trial by jury be fully ventilated, considered and analyzed since it has long been held in the state that the right of trial by jury may never be disturbed or abridged since under such circumstances the rights of the jury would be literally transferred to this Court in contravention to our sacred constitution. Williams Yellow Pine Co., v. Henley, 125 So. 552, 553 (1930).

And, further, the Response filed by Prudential to the Motion for Rehearing in substance admits that there was conflicting evidence on substantial issues thought important to this Court and a jury's consideration and reevaluation of these conflicting facts have always been and must be conclusive of that specific fact issue. Under Mississippi law, a jury verdict is absolutely binding on all factual disputes and concludes all factual controversy (Samuels v. Mladineo, 608 So.2d 1170, 1180 (Miss. 1992)) and the Supreme Court lacks constitutional authority to weigh conflicting evidence. Williams Yellow Pine Co., v. Henley, 125 So. 552 (1930).

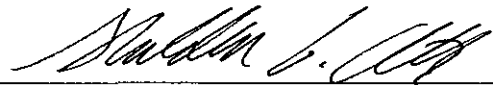
Counsel further prays that Plaintiffs not be required to suffer from Counsels obvious ineffective advocacy in presenting the facts to this Court resulting in the imposition of costs on

Plaintiffs (which will be, no doubt, astronomical) simply for attempting to collect on their father's insurance policy with Prudential.

WHEREFORE, Plaintiffs respectfully move this Court to allow oral argument on the Motion for Rehearing.

This the 25th day of October, 2007.

Respectfully submitted,



ALEX A. ALSTON, JR., MS Bar No. [REDACTED]
ELIZABETH L. DECOUX, MS Bar No. [REDACTED]
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CERTIFICATE OF SERVICE

I, Sheldon G. Alston, one of the attorneys for Appellees/Plaintiffs, hereby certify that I have this day served a true copy of the above and foregoing **Motion for Oral Argument** via First Class Mail to the following:

Roy H. Liddell, Esq.
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ATTORNEYS FOR APPELLANTS/DEFENDANTS,
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA and
PRUCO LIFE INSURANCE COMPANY

Honorable Winston L. Kidd
Circuit Judge
Hinds County Courthouse
407 East Pascagoula Street
Jackson, Mississippi 39201

TRIAL COURT JUDGE

This the 25th day of October, 2007.



Sheldon G. Alston