

Case No. 2,103.

BUELL v. CONNECTICUT MUT. LIFE INS. CO.

[1 Cin. Law Bul. (1875) 51.]

Circuit Court, N. D. Ohio.

PRACTICE AT LAW—PRODUCTION OF LETTER ON TRIAL—PROOF OF EXISTENCE—PERTINENCY TO ISSUE—POSSESSION—AFFIDAVIT OF ATTORNEY—SUFFICIENCY.

[Action by Anna M. Buell against the Connecticut Mutual Life Insurance Company. Defendant moves under Rev. St. § 724, to require plaintiff to produce on the trial a letter, written by plaintiff's husband, containing evidence pertinent to the issue, and alleged to be in plaintiff's possession and control. Motion denied.]

[For decree sustaining plaintiff's demurrer to the second defense interposed by defendant, see Case No. 2,104, following.]

Bishop & Adams, for the motion.

R. P. & H. C. Ranney, contra.

WELKER, District Judge. Before such an order will be made, the defendant must make reasonable proof of the existence of such paper, its pertinency to the issue, and that it is in the possession of or under the control of the plaintiff.

The affidavit of the attorney of the defendant, stating that he believes, from reliable sources, of information and inquiry, that there is such a letter pertinent to the issue, and in possession of the plaintiff, is not such reasonable proof of the facts as to authorize such order, which is therefore refused.

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