

H**Briefs and Other Related Documents**

Supreme Court, Appellate Division,
Second Department, New York.
Theresa Walsh TAURONE, etc., appellant,

v.

PRESIDENTIAL LIFE INSURANCE COMPANY,
et al., respondents.

Jan. 21, 2003.

Lauterbach & Garfinkel, LLP, Yonkers, N.Y. ([Leon A. Lauterbach](#) and [Howard Garfinkel](#) of counsel), for appellant.

Israelson & Gold, Plainview, N.Y. ([Jeffrey B. Gold](#) of counsel), for respondent Presidential Life Insurance Company.

Babchik & Young, LLP, White Plains, N.Y. ([Norman R. Ferren](#) of counsel), for respondent Joseph Soricelli.

587** In an action, inter alia, to recover money due as the beneficiary of an annuity contract, the plaintiff appeals from an order of the Supreme Court, Westchester County (DiBlasi, J.), entered March 20, 2002, which granted the defendants' respective *848** motions for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with one bill of costs.

The plaintiff, the cousin of the decedent William Birney, commenced this action, inter alia, to recover moneys she claims are owed to her as the beneficiary of an annuity contract issued ***588** to Birney by the defendant Presidential Life Insurance Company (hereinafter Presidential). The defendant Joseph Soricelli was the insurance broker who submitted the application to Presidential on behalf of Birney.

Contrary to the plaintiff's contention, the Supreme Court properly determined, as a matter of law, that neither she nor Birney's estate was entitled to receive

payments under the annuity or repayment of the balance of the premium. The annuity contract, as amended by Birney upon its delivery to him, clearly and unambiguously specified that its benefits were limited to lifetime \$1,000 monthly payments to the decedent and that no death benefits were payable (*see Fisher v. Metropolitan Life Ins. Co.*, 120 Misc.2d 635, 466 N.Y.S.2d 244). Accordingly, summary judgment was properly granted to the defendants (*see Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324, 508 N.Y.S.2d 923, 501 N.E.2d 572; *Zuckerman v. City of New York*, 49 N.Y.2d 557, 427 N.Y.S.2d 595, 404 N.E.2d 718).

The plaintiff's remaining contentions are without merit.

FLORIO, J.P., **O'BRIEN**, **ADAMS** and **CRANE**, JJ., concur.

301 A.D.2d 587, 753 N.Y.S.2d 847, 2003 N.Y. Slip Op. 10454

Briefs and Other Related Documents ([Back to top](#))

- [2002 WL 32721306](#) (Appellate Brief) Reply Brief of Plaintiff-Appellant (Sep. 26, 2002)
- [2002 WL 32721300](#) (Appellate Brief) Brief for Defendant-Respondent Joseph Soricelli (Sep. 10, 2002)
- [2002 WL 32721297](#) (Appellate Brief) Brief of Defendant-Respondent Presidential Life Insurance Company (Sep. 06, 2002)
- [2002 WL 32721291](#) (Appellate Brief) Brief of Plaintiff-Appellant (Aug. 08, 2002)

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