

SOUTHERN BELL TELEPHONE &  
TELEGRAPH COMPANY, a Corporation,

Plaintiff,

vs.

TOM HALE, ind. & d/b/a BOWLERAMA,

Defendant.

) IN THE CIRCUIT COURT OF  
) BALDWIN COUNTY, ALABAMA

6199

PLEA IN ABATEMENT

COMES NOW, TOM HALE, Defendant in the above entitled cause, and appears solely and specially for the purpose of filing this Plea in Abatement, and for no other purpose, and pleading in abatement says:

That BOWLERAMA, is, and has been at all times, a corporation organized and existing under the Laws of the State of Alabama, with its principal place of business at Demopolis, Alabama; that the Defendant, TOM HALE, has not, and at any time previously done business as BOWLERAMA.

WHEREFORE, the Defendant says that this suit should be abated, and should not be allowed to proceed.

Tom Hale  
Defendant

STATE OF ALABAMA )

BALDWIN COUNTY )

Before me, John V. Duff, a Notary Public in and for said County, in said State, personally appeared TOM HALE, who being duly sworn, deposes and says that he is the Defendant in the above cause, and that the facts set forth in the above and foregoing Plea in Abatement are true and correct.

Tom Hale  
Affiant

Subscribed and sworn to before me  
this 21<sup>st</sup> day of October, 1964.

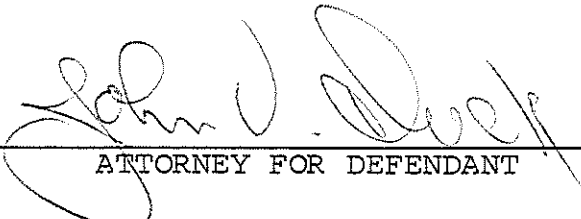
John V. Duff  
Notary Public, Baldwin County, Alabama

SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY, a corporation,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
Plaintiff	)	AT LAW
vs.	)	
TOM HALE, ind. & d/b/a BOWLERAMA,	)	
	)	
Defendant.	)	

MOTION TO SET ASIDE JUDGMENT

COMES NOW the Defendant in the above styled cause, and moves the Court to set aside the Judgment rendered in this cause on the 28th day of October, 1964, and for grounds thereof, assigns the following:

1. That the Defendant has a valid defense to the suit.
2. That the Plea filed in this cause is a sworn Plea and that the Defendant has been out of the State since the date of service.

  
ATTORNEY FOR DEFENDANT

**FILED**  
NOV 2 1964  
ALICE L. DUCK, CLERK  
REGISTER

11-2-64 It is ordered that this motion be set down for hearing on the 19th day of November, at 9:00 o'clock, A.M.  
J. J. Madison  
Judge.

SOUTHERN BELL TELEPHONE &  
TELEGRAPH COMPANY, a corporation,

Plaintiff,

vs.

TOM HALE, individually & d/b/a  
BOWLERAMA,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
AT LAW.

CASE NO. 6199.

Comes now the Plaintiff by and through its attorney of record, in the above styled cause, and moves to strike Defendant's Plea in Abatement heretofore filed in this cause, and alleges as grounds in support thereof, separately and severally, the following:

(1) For that said Plea was filed after entry of final judgment against said Defendant.

(2) For that under the provisions of Rule 12, of the Rules of Practice of Circuit and Inferior Courts, said plea does not appear by indorsement to have been filed within the time permitted by law.

(3) For that under the provisions of Rule 10 of the Rules of Practice of Circuit and Inferior Courts, the Plaintiff is not bound to receive any plea or pleading of the Defendant who is in default.

  
COUNSEL FOR PLAINTIFF.

MORTIMER P. AMES  
Attorney at Law  
Selma, Alabama  
Attorney for Plaintiff.

I, the undersigned, hereby certify that on the 5th day of November, 1964, did mail a copy of the foregoing motion to John V. Duck, attorney of record for Defendant, by depositing the same in the U. S. Mails, postage prepaid.

  
**FILED**

NOV 6 1964

JOHN V. DUCK, CLERK  
REGISTER

SOUTHERN BELL TELEPHONE &  
TELEGRAPH COMPANY, a corporation,

Plaintiff,

vs.

TOM HALE, individually & d/b/a  
BOWLERAMA,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
AT LAW.

CASE NO. 6199.

Comes now the Plaintiff by and through its attorney of record, in the above styled cause, and moves to strike Defendant's Motion to Set Aside Judgment heretofore filed in this cause, and alleges as grounds in support thereof, the following, both separately and severally:

(1) For that said Motion is not accompanied by affidavit showing merit and sufficient matter of excuse, as required by Rule 11 of the Rules of Practice of Circuit and Inferior Courts.

(2) For that said Motion fails to state wherein said Defendant has a valid defense to said action.

(3) For that said Motion fails to aver or allege any matters which, if true, would constitute a defense to Plaintiff's action.

(3) For that said Motion fails to aver any matters of excuse, which, if true, would warrant the setting aside of said Default Judgment.

(4) For that said Motion is not verified.

U.P. AMES  
COUNSEL FOR PLAINTIFF.

MORTIMER P. AMES  
Attorney at Law  
Selma, Alabama  
Attorney for Plaintiff.

I, the undersigned, hereby certify that on the 5th day of November, 1964, did mail a copy of the foregoing motion to John V. Duck, attorney of record for Defendant, by depositing the same in the U. S. Mails, postage prepaid.

U.P. AMES  
FILED

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NOV 10 1964  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ALABAMA

SOUTHERN BELL TELEPHONE & TELEGRAPH )	IN THE CIRCUIT COURT OF
COMPANY, a Corporation,	
Plaintiff,	) BALDWIN COUNTY, ALABAMA
vs.	) AT LAW NO. 6199
TOM HALE, ind. & d/b/a BOWLERAMA,	)
Defendant.	)

AMENDED MOTION TO SET ASIDE DEFAULT  
JUDGMENT

Comes now the Defendant in the above styled cause and amends the Motion to set aside Default Judgment filed herein and for grounds therefore, shows unto the Court as follows:

1. That the Defendant has a valid defense to the suit, in that BOWLERAMA, is a corporation, and has always been a corporation organized and existing under the laws of the State of Alabama, and your Defendant has never operated BOWLERAMA in an individual capacity.

2. That the Defendant herein had filed a Plea in Abatement drawn by his Attorney, John V. Duck, but at the time the Defendant was in Chicago, Illinois and was unable to execute said Plea in Abatement until his return to Fairhope, Alabama, and that the Plaintiff took a Judgment by Default on the 28th day of October, 1964, and that said Plea in Abatement was not filed until the day after the said Judgment by Default.

3. Defendant further alleges that due to the unavoidable circumstances, there was such delay in the execution in the filing of said Plea and that he was not informed that Judgment by Default had been taken against him until the 1st day of November, 1964, after his return from Chicago, Illinois.

THEREFORE, your Petitioner, the Defendant, moves the Court to set aside the Default Judgment herein.



FILED

STATE OF ALABAMA

BALDWIN COUNTY

Personally appeared before me, the undersigned authority,  
TOM HALE, and who being by me first duly and legally sworn, does  
depose and say that the matters and facts alleged herein are true  
and correct.

  
TOM HALE

Sworn to and subscribed before me on this  
the 24<sup>th</sup> day of November, 1964.

  
Notary Public

SOUTHERN BELL TELEPHONE &  
TELEGRAPH COMPANY, a corp.,

Plaintiff,

vs.

TOM HALE, ind. & d/b/a  
BOWLERAMA,

Defendant.

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IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA, AT  
LAW, CASE NO. 6199.

Comes now the Plaintiff by and through its attorney of record, in the above styled cause, and moves to strike Defendant's Motion to Set Aside Default Judgment, as last amended, and alleges as ground in support thereof, the following, both separately and severally:

(1) The Plaintiff hereby adopts all of the grounds averred in support of its motion to strike Defendant's Motion to Set Aside Default Judgment, to, wit, grounds numbered (1) through (4), inclusive.

(5) For that the Defendant fails to aver any facts or circumstances, which if true, would show that Defendant's failure to make an appearance within the time required by law, was due other than to his own negligence.

(6) For that said motion fails to aver any facts or circumstances which would excuse or prevent the Defendant from having made an appearance from the date of service, to-wit, September 25, 1964, to the date of entry of default judgment on, to-wit, October 28, 1964.

(7) For aught that appears, Defendant was in the State of Alabama and/or Baldwin County, during the period September 25, 1964, to October 26, 1964, said dates being the date of service of summons and complaint and the date on which default judgment could have been entered against said Defendant.

(8) For that Defendant's averment of "unavoidable circumstances", are mere conclusions of the pleader, and do not set forth any matter under which this Court may grant relief.

(9) For that the averment by Defendant that he was not advised of the entry of default judgment against him until November 1, 1964,

does in no wise entitle Defendant to relief under his Motion to Set Aside Default Judgment, as last amended.

(10) For that it affirmatively appears from the averments of Defendant's Motion, that his failure to make an appearance, either special or general, was due to his own fault or negligence.

(11) For aught that appears, Defendant had ample and reasonable time in which to secure counsel of his choosing to make an appearance, either special or general, before his removal from the State of Alabama, to Chicago, Illinois.

(12) For aught that appears, Defendant could have made an appearance, either special or general, at any time during the period from date of service of summons and complaint, on, to-wit, September 25, 1964, to date of entry of final judgment, on, to-wit, October 28, 1964.

RESPECTFULLY SUBMITTED,



Counsel for Plaintiff.

MORTIMER P. AMES  
Attorney at Law  
Selma, Alabama  
Attorney for Plaintiff.

FILED

Dec. 2

ALICE J. DUCK, CLERK  
REGISTER



MORTIMER P. AMES  
ATTORNEY AT LAW  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA  
March 17, 1965

Judge Telfair J. Mashburn  
Baldwin County Circuit Court  
Bay Minette, Alabama

Dear Judge Telfair:

Re: Southern Bell Telephone Company vs.  
Tom Hale.

Reference is made to my letter to you of January 27, 1965. Final judgment was entered in this case against Defendant on October 27, 1964. Thereafter, Defendant filed a plea in abatement and motion to set aside default judgment. This plea and motion of Defendant's was subsequently amended, and presently is subject to Plaintiff's motion to strike, based on the insufficiency of the grounds in Defendant's plea. As the docket now stands, your court has not ruled on Plaintiff's motion to strike Defendant's motion to set aside default judgment, as last amended.

It would be appreciated if you could advise me of an approximate date on which I can expect a ruling from your court on Plaintiff's motion to strike.

Thanking you for your cooperation,

Yours very truly,



MORTIMER P. AMES

MPA/a

WILLIAM L. GREEN  
LAWYER  
P. O. BOX 1048  
MOBILE, ALABAMA

March 10, 1965

Hon. Arthur C. Epperson  
Attorney at Law  
Post Office Box 716  
Foley, Alabama 36525

RE: Brookley Federal Credit Union

VS: Jim D. Brown

Baldwin County Circuit Court  
Number 6276

Dear Mr. Epperson

I wrote you on January 14, 1965, with regard to the case which I have filed in the Baldwin County Circuit Court and to which you have filed demurrers. Later in January, you called my office and I called the judge of the Baldwin County Circuit Court to determine whether it would be necessary for me to appear in person and argue the demurrers on the third Thursday of that month. I have heard nothing from you since that time but Judge Mashburn assured me on the telephone that it would not be necessary for me to appear in the court until you were ready to argue your demurrers or there was some effective pleading to be disposed of in the case.

Since I have not heard from you since that time and have not received the interrogatories you told me you expected to file and have heard nothing regarding any further defense on your part, I would appreciate you advising me whether you expect to insist on the demurrers and, if so, whether they will be argued on Thursday, March 18 or at some future date.

Very truly yours,

WILLIAM L. GREEN

WLG:mdm

cc: Hon. Telfair Mashburn, Judge

IN THE CIRCUIT COURT OF BALDWIN  
COUNTY, ALABAMA, AT LAW.

0 CASE NO. 6199.

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MORTIMER P. AMES  
ATTORNEY AT LAW  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

October 23, 1964

Alice J. Duck  
Circuit Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Madam:

Re: Southern Bell Telephone Company vs.  
Tom Hale; Circuit Court, case number  
6199.

I have prepared a default judgment to be entered against defendant in the above mentioned case. It would be appreciated if you would have it signed by the judge and entered as of October 27, 1964, this date being the thirty-first day after service of summons and complaint.

I have also inclosed my check in the sum of \$1.25 for the recording of a certificate of judgment in the Probate Office of Baldwin County. I would appreciate your preparing a certificate of judgment, handing it along with my check to the Judge of Probate.

Thanking you for your cooperation,

Yours very truly,



MORTIMER P. AMES

MPA/a

MORTIMER P. AMES  
ATTORNEY AT LAW  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

December 1, 1964

Mrs. Alice J. Duck  
Circuit Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Southern Bell Telephone Company vs.  
Tom Hale; case number 6199.

You will please find enclosed original of motion to strike Defendant's motion to set aside default judgment, as amended.

I have provided Mr. Duck with a copy of the enclosed pleading

Yours very truly,



MORTIMER P. AMES

MPA/a  
enclosure.

SOUTHERN BELL TELEPHONE & TELEGRAPH ) IN THE CIRCUIT COURT OF  
COMPANY, a Corporation,

Plaintiff,

) BALDWIN COUNTY, ALABAMA

) AT LAW NO. 6199

vs.

TOM HALE, ind. & d/b/a BOWLERAMA,

Defendant.

ORDER FOR CONTINUING MOTION TO SET ASIDE  
JUDGMENT

On the 19th day of November, 1964, the Defendant in open Court moved the Court to continue the hearing date on Motion to set aside Default Judgment and the Court being of the opinion, that said Motion is well taken, it is, therefore, ordered that the Motion to set aside Default Judgment, be and the same is hereby continued until on the 17<sup>th</sup> day of December, 1964.

Jelaine J. Masleberry  
CIRCUIT JUDGE, BALDWIN COUNTY, ALABAMA

FILED

NOV 20 1964

MORTIMER P. AMES  
ATTORNEY AT LAW  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

November 5, 1964

Mrs. Alice J. Duck  
Circuit Clerk  
Baldwin County Court House  
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Southern Bell Telephone Company  
vs. Tom Hale; case number 6199.

You will please find enclosed the originals of motion to strike Defendant's Plea in Abatement, and motion to strike Defendant's motion to set aside default judgment.

It would be appreciated if in docketing these two respective motions, that the entries be made in order as follows:

1. Motion to strike Plea in Abatement.
2. Motion to strike Motion to Set Aside Default Judgment.

Thanking you for your cooperation,

Yours very truly,

  
MORTIMER P. AMES

MPA/a  
enclosures.

MORTIMER P. AMES  
ATTORNEY AT LAW  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

September 21, 1964

Alice J. Duck  
Circuit Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Madam:

Re: Southern Bell Telephone Company vs.  
Tom Hale, ind. & d/b/a Bowlerma.

You will please find inclosed the original and defendant's copy of summons and complaint to be served on defendant who presently resides at Fairhope, c/o Bowling Center.

It would be appreciated, upon completion of service of process, if you would advise me of the date of filing, date of service and case number assigned.

Thanking you for your cooperation,

Yours very truly,



MORTIMER P. AMES

MPA/a



MORTIMER P. AMES  
ATTORNEY AT LAW  
P. O. DRAWER 457  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

December 28, 1965

Mrs. Alice J. Duck  
Circuit Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Southern Bell Telephone Company vs.  
Tom Hale; case number 6199.

I have and thank you for the pleading notice received in this morning's mail.

I wish to advise that my motion to dismiss and accompanying affidavits filed in the above case are to be submitted to Judge Mashburn without oral argument.

I remain,

Yours very truly,



MORTIMER P. AMES

MPA/a

P. S. It would be appreciated if you would forward to me a copy of Judge Mashburn's ruling.

FILED

DEC 29 1965

ALICE J. DUCK, CLERK  
REGISTRAR

April 26, 1965

Duck & Lacey  
Attorneys at Law  
Fairhope, Alabama

Gentlemen,

Re: Southern Bell Telephone &  
Telegraph Co., vs: Tom Hale  
Case No. 6199

The Judge has this day denied the Plaintiff's motion to strike Defendant's motion to set aside default Judgment and defendant's plea in abatement. Defendant's motion to set aside Default Judgment was granted. Case now stands on record on the Defendant's Plea in abatement to Plaintiff's complaint.

Very truly yours

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Circuit Clerk

AJD/eb

COPY

April 26, 1965

Hon. M.F. Ames

Selma, Alabama

Re: Southern Bell Telephone &  
Telegraph Co., vs: Tom Hale  
Case No. 6196

Dear Sir,

The Judge has this day denied the Plaintiff's motion to strike Defendant's motion to set aside default judgment and defendant's plea in abatement. Defendant's motion to set aside default judgment was granted. Case now stands on record on the Defendant's Plea in abatement to Plaintiff's complaint.

Very truly yours,

---

Circuit Clerk.

AJD/eb

COPY

MORTIMER P. AMES  
ATTORNEY AT LAW  
P. O. DRAWER 457  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

July 23, 1965

Mrs. Alice J. Duck  
Circuit Clerk  
Circuit Court of Baldwin County  
Bay Minette, Alabama

Dear Mrs. Duck:

Re: Southern Bell Telephone Company  
vs. Tom Hale.

I have and thank you for the pleading notice received in this morning's mail.

I wish to advise that my motion to dismiss and accompanying affidavits are to be submitted to Judge Mashburn without oral argument.

I remain,

Yours very truly,



MORTIMER P. AMES

MPA/e

**MORTIMER P. AMES**  
ATTORNEY AT LAW  
SELMA NATIONAL BANK BUILDING  
SELMA, ALABAMA

May 6, 1965

Mrs. Alice J. Duck  
Circuit Clerk  
Baldwin County Circuit Court  
Bay Minette, Alabama

Dear Mrs. Duck:

*no. 6199*

Re: Southern Bell vs. Tom Hale.

I have and thank you for your letter of May 5th, in which you advise of the hearing date in the above case.

It would be appreciated if you would advise Judge Mashburn that I do not intend to argue my motion personally, and submit my affidavits heretofore provided in support of Plaintiff's Motion.

I remain,

Yours very truly,



MORTIMER P. AMES

MPA/a

*attach to C.S.*



THE STATE OF Alabama    :

THE COUNTY OF Dallas    :

Before me, Mortimer P. Ames, a Notary Public in and for said County and State, personally appeared S. D. Granade, who, being by me duly sworn, deposes and says, that he is the office manager for

Southern Bell Tel & Tel Co., a corporation, in the State of Alabama;

that the annexed statement of the account of said corporation against the said Bowlerama, Tom Hale, owner is just, true, and correct; that there is now due on said account the sum of \$ 99.83, after deducting all credits set-offs or counterclaims.

Southern Bell Tel & Tel Co.

BY: S. D. Granade

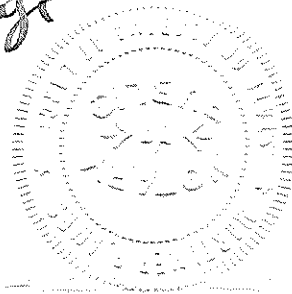
SWORN TO AND SUBSCRIBED before me this the 21<sup>st</sup> day of

Sept, 19 64.

W. P. Mills  
Notary Public, St

at large

My Commission Expires: 2/17/65



9-10-64

19

1612

% Tom Hall Bowling Center Demo  
Fairhope, Ala.

**\$99.83**

159