

B. L. POLK)
Plaintiff)
VS.)
FRANCES G. MALLORY, Realtor)
dba Frances G. Mallory Agency)
Defendant)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

Case No. 6329

COUNT ONE

The plaintiff claims of the defendant the sum of \$5000.00 as damages for the malicious conversion by the defendant of a check the property of the plaintiff on or after December 30, 1963 and prior to the commencement of this suit, the exact date being unknown to the plaintiff, said check being identified as follows, to-wit: a personal check dated December 26, 1963 drawn in the sum of \$500.00 on the Farmers and Merchants Bank of Foley, Alabama, signed by B. L. Polk and containing the following notation in the lower left hand corner of said check, "For Earnest Money Binder-Lot 7, Block 2, Southport Unit of Gulf Shores, Alabama".

The plaintiff avers that he made demand upon the defendant for said check prior to its conversion by the defendant and that the defendant refused to deliver said check to the plaintiff who was then and there at the time of demand entitled to said check.

The plaintiff further avers that said malicious conversion by the defendant was accompanied by acts of insult and ridicule and that as a proximate result and consequence of said malicious conversion of said check by the defendant, the plaintiff was caused to suffer and continues to suffer great mental stress and strain, humiliation and personal embarrassment for all of which he claims compensatory and punitive damages as aforesaid.

Arthur C. Epperson
Attorney for the Plaintiff

The plaintiff demands a trial by Jury.

Arthur C. Epperson
Attorney for the Plaintiff

FILED

DEC 4 1963

ALICE J. DICK, Clerk

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 6329

-----TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon FRANCES G. MALLORY,

Gulf Shores, Ala.

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against -----

Frances G. Mallory, Realtor -----, Defendant-----

by B. L. Polk -----

-----, Plaintiff-----

Witness my hand this 4th day of December 19 64

64-12-17-64 Alice J. Duck -----, Clerk

No. 6329

Page _____

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

B. L. POLK

Plaintiffs

vs.

FRANCES G. MALLORY,

REALTOR DBA Frances G.

Mallory, Agency Defendants

Summons and Complaint

FILED

Filed December 19 64

DEC 4 1964

Clerk

ALICE I. DICK CLERK

Arthur C. Epperson

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Gulf Shores, Ala.

Received In Office

RECEIVED

, 19____

DEC 2 1964

Sheriff.

TAYLOR WILKINS

I have executed this summons

this Dec - 17 1964

by leaving a copy with

Frances G. Mallory

Sheriff claims 100

Ten Cents per mile Total 10.00

TAYLOR WILKINS

BY

DEPUTY SHERIFF

James L. Smith

Sheriff.

Charles E. Smith

Deputy Sheriff.

W. J. Starnes

B. L. POLK	)	
	)	
Plaintiff	)	IN THE CIRCUIT COURT OF
	)	
VS	)	BALDWIN COUNTY, ALABAMA
	)	
FRANCES G. MALLORY, Realtor	)	AT LAW
dba Frances G. Mallory Agency,	)	
	)	Case No. 6329
Defendant	)	

Comes the Defendant in the above styled cause and respectfully shows unto your Honor the following:

That on, to-wit, the 30th day of December, 1963, the Plaintiff, B. L. Polk, made and entered into an offer to purchase the property referred to in the Complaint from Quinton A. Williams and Evelyn N. Williams, husband and wife, which said offer was accepted in writing, a copy of which is of record in the office of the Judge of Probate of Baldwin County, Alabama, in Mortgage Book 451, page 510, which by reference is made a part hereof. This said offer and acceptance as a part thereof provides that the earnest money binder check of B. L. Polk in the amount of \$500.00 shall be returned if the offer is not accepted, but makes no provision for the return of the check if the offer is accepted. The Defendant shows that she in her capacity as a realtor, has carried out and performed her duties as such and is entitled to compensation. She further shows that she has an equitable defense to the above styled cause and that a transfer of said cause to equity will prevent a multiplicity of suits, the rights of all parties be subject to decision and settlement in one proceeding in a Court of Equity. The Defendant further shows that she is entitled to a declaratory judgment in a Court of Equity as to the effect of the third paragraph of the offer and acceptance which provides that the earnest money would be returned if the offer was not accepted, but makes no provision of repayment by the Defendant on acceptance.

Wherefore the Defendant respectfully prays that upon a hearing of this her motion, that your Honor will adjudge and

and decree that this action be transferred from the Law side of the Court to the Equity side of the Court, and that the same shall thereupon be docketed and proceeded on the Equity side of the Court in manner and form as provided by law and according to the rules of Equity.

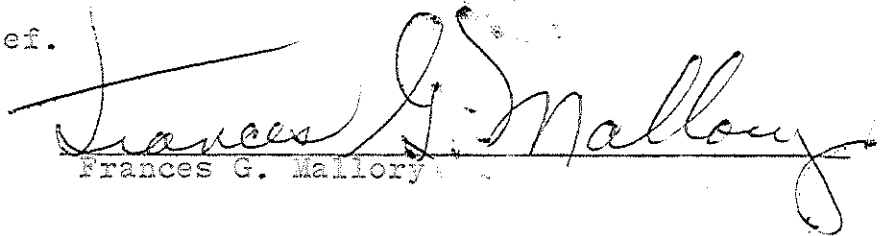


Attorney for Defendant

STATE OF ALABAMA

BALDWIN COUNTY

Before me C. G. Chason, a Notary Public in and for said County and said State, personally appeared FRANCES G. MALLORY, who is the Defendant in the above styled cause and who has knowledge of the facts set forth in the foregoing petition, and who being by me first duly and legally sworn, says under oath that the matters and facts hereinabove set forth are true and correct to the best of her knowledge, information and belief.


Frances G. Mallory

Sworn to and subscribed before me, a Notary Public, on this the 8th day of January, 1965.


Notary Public, Baldwin County
State of Alabama

FILED

JAN 11 1965

RECEIVED