

2408

STATE OF ALABAMA)
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon PAUL TUVESON to

appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama in Equity, at the place of holding same, then and there to answer the Bill of Complaint filed against him by W. M. MEADOR.

WITNESS my hand on this the 10th day of February, 1950.

Register.

The Respondent in this case resides at Fairhope, Alabama and if there is a Paul Tuveson, Sr. and a Paul Tuveson, Jr., this paper is to be served on Paul Tuveson, Sr.

IN THE CIRCUIT COURT FOR BALDWIN COUNTY, ALABAMA

W. M. MEADOR,
Plaintiff,
vs.
PAUL TUVESON,
Defendant.

IN EQUITY NO. _____

TO THE HONORABLE JELFAIR J. MASHBURN, CIRCUIT JUDGE, IN EQUITY
SITTING:

BILL OF COMPLAINT

Comes now W. M. MEADOR, plaintiff in the above entitled cause, and shows unto the Court as follows:

1. The plaintiff is a resident citizen of the County of Mobile, State of Alabama, and is over the age of twenty-one years. The defendant is a resident citizen of the County of Baldwin, State of Alabama, and is over the age of twenty-one years.

2. The plaintiff is the owner of, and in the peaceable possession of, the following described real estate situate in the County of Baldwin, State of Alabama, viz:

From the Northeast corner of the Southeast $\frac{1}{4}$ of Section 25, Township 6 South, Range 1 East, run West 2483.5 feet to a point, thence South 1609.6 feet to a point on the margin of the right-of-way of the paved highway, for a point of beginning, thence South 60 degrees 30 minutes West and along the northerly boundary of said right-of-way

78 feet to a point, thence North 71 degrees 49 minutes West 850 feet, thence North 16 degrees 30 minutes East 53.6 feet, thence South 71 degrees 49 minutes East 535.2 feet to a point, thence South 72 degrees 43 minutes East 367.3 feet to the place of beginning.

3. The defendant is in the possession of and claims to own the real estate abutting on Mobile Bay and immediately adjacent to and south and west of the above described property, the plaintiff and defendant being coterminal property owners.

4. The true boundary line between the properties hereinabove described is set out in the section of this Bill of Complaint designated "2".

5. There is a dispute between plaintiff and defendant as to the said true boundary line between said properties, and there is a dispute as to the actual location of the said true boundary line as hereinabove set out.

6. Defendant has excavated land on defendant's property along and adjacent to said boundary line, removing and withdrawing the lateral support to plaintiff's said land in its natural and unimproved state, as a proximate consequence of which plaintiff's said land is subsiding and falling into the said excavation made by defendant on defendant's said property.

7. Defendant has made said excavation connect with Mobile Bay, thereby filling said excavation with the waters of Mobile Bay, and said excavation is constantly and continuously subject to the ebb and flow of the tides from Mobile Bay.

8. Defendant has and is using said water-filled

excavation as a passage way for motor propelled and other boats and small craft up to, and it is used in connection with, a boat house and boat repair shop which are located on defendant's said property adjacent to plaintiff's said property.

9. The ebb and flow of the tides, and the waves created by the operation of boats to and from defendant's said shop, have eroded the lands adjacent to defendant's said boundary, and have washed away the lands of plaintiff so that the water in defendant's said excavation now stands on plaintiff's land, and said erosion of plaintiff's land is continuing and will get worse unless plaintiff can get relief from this Court in this cause.

10. The defendant is and continuously has been trespassing on plaintiff's land by removing and withdrawing the said lateral support to plaintiff's land, which is subsiding and eroding, and by throwing or causing to be thrown water upon plaintiff's land, and by flooding plaintiff's land with water from said excavation. The said trespasses are repeated, continuous and irreparable.

11. The trespassing on plaintiff's lands, and the throwing of water onto plaintiff's land, and the constant standing water on plaintiff's land constitute a nuisance, for the abatement of which plaintiff has no adequate remedy at law.

PRAYER FOR PROCESS

WHEREFORE, THE PREMISES CONSIDERED, plaintiff prays

that this Court issue process to the defendant, PAUL TUESON, requiring him to plead, answer and demur within the time allowed by law and the Rules of this Court.

PRAYER FOR RELIEF

WHEREFORE, THE PREMISES CONSIDERED, plaintiff prays that, upon the final hearing of this cause, the Court will:

1. Fix and determine the true and correct boundary line between the properties of the parties and the actual location thereof.

2. To mandatorily enjoin defendant from withdrawing lateral support to plaintiff's land along said boundary.

3. Prohibit defendant from committing further trespasses on plaintiff's land.

4. Abate the nuisance maintained on defendant's land.

5. Plaintiff prays for such other, further and

different relief to which he is entitled in the premises.

Solicitor for Plaintiff

JUDGE H. A. BURNS
ATTORNEY AT LAW
FAIRHOPE, ALABAMA

March 13, 1950.

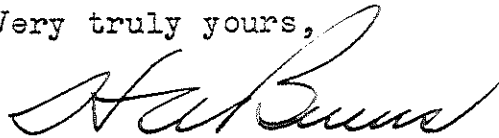
Mrs. Alice J. Duck,
Clerk Circuit Court of Baldwin County, Ala
Bay Minette, Ala.

My dear Mrs. Duck:

I am enclosing herewith demurrers in
the cause entitled Meador, Complainant Vs. Tuveson,
Defendant. This cause is pending in equity and is
numbered 2428.

Will you please file these demurrers
in the above numbered cause.

Very truly yours,



H. A. Burns,
Solicitor for Respondent.

W. M. Meador,

Complainant

Vs.

Paul Tuverson,

Respondent

In the Circuit Court for

Baldwin County, Ala.

In Equity.

Respondent, Paul Tuverson, files this, his demurrer to the complaint as a whole, and to each aspect of said bill, separately and severally, assigning as grounds of such demurrer, separately and severally, the following:

1st. There is no equity in the bill nor any aspect thereof.

2nd. Sufficient facts are not alleged in the bill, nor any aspect thereof, upon which the court can predicate the relief sought in said bill.

3rd. That the averments contained in said bill, and the several aspects thereof, are aught but conclusions of the pleader.

4th. For aught appearing in said bill or in any aspect of said bill, the complainant has a complete and adequate remedy at law.



Solicitor for Respondent.

RECORDED

#2428.

In the Circuit Court of
Baldwin County, Alabama.
In Equity.

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W. M. Meador,
Complainant.

Vs.

Paul Tuvebon,
Respondent.

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Demurrer of Respondent.

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FILED

MAR 15 1950

ALICE L. BUCK, Register

H. A. Burns.
Solicitor for Respondent.

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