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STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon TUVESON'S MARINA, INC., 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 it by W. M. MEADOR.

WITNESS my hand on this the 2nd day of May, 1951.

Deirdre H. H. H.

Register.

W. M. MEADOR,

Complainant,

VS.

TUVESON'S MARINA, INC.,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

BILL OF COMPLAINT

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

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

1. The complainant is a resident citizen of the County of Mobile, State of Alabama, and is over the age of twenty-one years. The Respondent is a corporation organized and existing under the laws of the State of Alabama with its principal place of business at Fairhope in Baldwin County, Alabama.

2. The complainant 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 Quarter 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.

The respondent 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 complainant and respondent being coterminous 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 the complainant and respondent 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. Respondent, its agents, servants or employees, has excavated land on respondent's property along and adjacent to said boundary line, removing and withdrawing the lateral support to complainant's said land in its natural and unimproved state, as a proximate consequence of which complainant's said land is subsiding and falling into the said excavation made by respondent on respondent's said property.

7. Respondent 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. Respondent 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 respondent's said property adjacent to complainant's said property.

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

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

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

PRAYER FOR PROCESS

WHEREFORE, THE PREMISES CONSIDERED, complainant prays that this Court issue process to the respondent, Tuveson's Marina, Inc., requiring it to plead, answer and demur within the time allowed by law and the rules of this Court.

PRAYER FOR RELIEF

WHEREFORE, THE PREMISES CONSIDERED, complainant 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 respondent from withdrawing lateral support to complainant's land along said boundary.
3. Prohibit respondent from committing further trespasses on complainant's land.
4. Abate the nuisance maintained on respondent's land.
5. Complainant prays for such other, further and different relief to which he is entitled in the premises.

J. B. Blackburn
Solicitor for Complainant.

Serve on Paul T. Tuveson, President, Rudolph E. Tuveson,
Secretary, or Robert Tuveson, Vice President, of Tuveson's
Marina, Inc.