

NO. 7231 Rogers vs. Mahowan

JURY LIST - SPRING SESSION - MARCH 4, 1962

- ~~1. Douglas, Oliver, Brookley Field, Daphne~~
- ~~2. Lucassen, Joe L., Sr., Business Manager, Foley~~
- ~~3. LeDrew, Roy C., Auditor, Foley~~
- ~~4. Guthrie, Hershey H., Farmer, Foley~~
- ~~5. Hastings, Donald E., Farmer, Rosinton~~
- 6. Frank, Jake, Jr., Farmer, Elberta
- 7. Reedy, M. J., Postal Clerk, Bay Minette
- 8. Rider, Billy, Civil Service, Lillian
- 9. Nix, Ellis, Feed Mill, Silverhill
- ~~10. Peterson, L.P., Farmer, Robertsdale~~
- 11. Newton, Forrest B., Clerk, Bay Minette
- ~~12. Nitteberg, Harry, Carpenter, Robertsdale~~
- ~~13. Stewart, Margaret, Housewife, Magnolia Springs~~
- ~~14. Stimpson, Carl, Clay Products, Fairhope~~
- 15. Byrd, Claude, Newport, Bay Minette
- 16. Clemmons, Scott, Brookley Field, Fairhope
- ~~17. Cleverdon, Paul L., Farmer, Summerdale~~
- ~~18. Goremam, John E., Brookley Field, Bay Minette~~
- 19. Cox, Ruth G., Stockton
- ~~20. Burkel, Fred, Civil Service, Foley~~
- ~~21. Byrd, Carl, Civil Service, Stapleton~~
- ~~22. Anacker, Walter R., Farmer, Fairhope~~
- 23. Bateman, Martin K., Bell Telephone, Bay Minette
- ~~24. Beck, John, Mechanic, Foley~~
- ~~25. Berglin, Quider S., Widow, Fairhope~~
- ~~26. Brinx, Willis, Farmer, Foley~~
- 27. Bryhn, Carl L., Farmer, Elberta
- ~~28. Frawick, Cecil, Farmer, Stapleton~~
- ~~29. Trione, Leonard, Real Estate, Daphne~~
- ~~30. Underwood, Vaughn, Farmer, Foley~~
- ~~31. McGowan, Ted, State Employee, Bay Minette~~
- ~~32. Rhodes, Larkin T., Jr., Farmer, Bay Minette~~
- ~~33. Weston, Harold, Clerk, Fairhope~~
- 34. Willis, Bruce, Mechanic, Elberta
- ~~35. Joyner, J. H., Jr., Grand Hotel, Fairhope~~
- ~~36. Cause, Thomas H., Bacon McMillan Mills, Bay Minette~~
- 37. Yohn, Walter M., City of Fairhope, Fairhope
- ~~38. Young, Elijah, Jr., Standard Furniture, Bay Minette~~
- ~~39. Brewer, Ben, Farmer, Robertsdale~~
- ~~40. Pierson, Donald, Farmer, Robertsdale~~

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DAVID ROGERS and MARGARET)	IN THE CIRCUIT COURT OF
E. ROGERS,)	
Plaintiffs)	BALDWIN COUNTY, ALABAMA
VS)	AT LAW
D. C. McGOWAN,)	
Defendant)	CASE NO. 7232

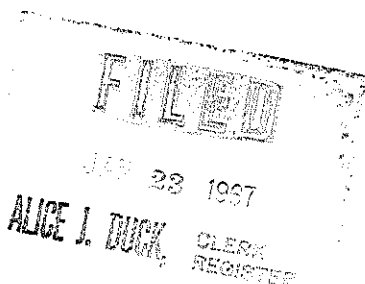
DEMURRER

Comes the defendant in the above styled cause and demurs to the complaint, as amended, heretofore filed in said cause and assigns the following separate and several grounds thereto:

1. For that the allegations contained therein fail to state a cause of action against this defendant.
2. For that the allegations contained therein fail to show any duty owed by the defendant to the plaintiffs.
3. For that from the allegations contained therein the defendant is not apprised as to whether the plaintiffs claim of the defendant in tort or in contract.
4. For that said count is duplicitous.
5. For that it affirmatively appears that the plaintiffs are claiming damages of another other than the named defendant.
6. For that it affirmatively appears that the defendant did not bring about the damages complained of by the plaintiffs because the complaint affirmatively shows that it was more than one person who caused said damage to the alleged properties of the plaintiffs.


PILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorneys for Defendant
BY: FRED W. KILLION, JR.

I, Fred W. Killion, Jr., hereby certify that I have mailed a copy of the foregoing Demurrer to Mr. Harry J. Wilters, Jr., attorney of record for the plaintiffs, Bay Minette, Alabama, on this 20th day of January, 1967.



DAVID ROGERS and MARGARET
E. ROGERS,

Plaintiffs

VS

D. C. MCGOWAN,

Defendant

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

) CASE NO. 7232

PLEAS


Comes the defendant in the above styled cause and for answer to the complaint heretofore filed in said cause files the following separate and several Pleas thereto:

PLEA ONE

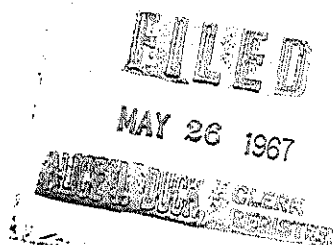
The defendant respectfully avers that he is not guilty of the allegations contained therein, hence the plaintiffs cannot recover.

PLEA TWO

The defendant respectfully avers that the allegations contained therein are untrue, hence the plaintiffs cannot recover.


PILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorneys for Defendant
BY: FRED W. KILLION, JR.

I, Fred W. Killion, Jr., hereby certify that I have mailed a copy of the foregoing Pleas to Mr. Harry J. Wilters, Jr., attorney of record for the plaintiffs, P. O. Box 968, Bay Minette, Alabama, on this ^{25th} ~~24th~~ day of May, 1967.



DAVID ROGERS and MARGARET
E. ROGERS,

Plaintiffs,

vs.

D. C. McGOWAN,

Defendant,

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 7232

ORDER OVERRULING DEMURRERS

This being the regular day set, by the Court, to rule upon demurrers, the Plaintiffs appeared by and through their Attorney, and the Respondent appeared not, and the Court having heard the argument of the Plaintiff's attorney, the Demurrers filed by the Respondent to the Original Bill of Complaint, the Court having understood the same; it is, ORDERED and ADJUDGED, by the Court that the Demurrers to the Respondent's Bill of Complaint, in this cause, be, and the same are hereby overruled.

Done this 18th day of May, 1967.

Judge W. M. Moulton
Circuit Judge

FILED

MAY 19 1967

ALICE L. BROWN, CLERK
RECORDED

DAVID ROGERS and MARGARET
E. ROGERS

Plaintiffs

vs

D. C. MCGOWAN

Defendant

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X

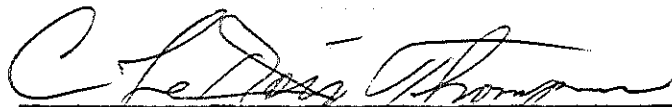
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 7232

Comes C. LeNoir Thompson, attorney and files his appearance
as associate counsel for the defendant in the above styled cause.


Attorney for defendant.

I hereby certify that I have mailed a copy of the foregoing
to Honorable Harry J. Wilters, Jr., attorney of record for the
plaintiffs, P. O. Box 968, Bay Minette, Alabama, on this 22nd
day of August, 1967.



FILED

AUG 22 1967

ALICE J. DUCK CLERK
REGISTER

DAVID ROGERS and)	IN THE CIRCUIT COURT OF
MARGARET ROGERS,)	BALDWIN COUNTY, ALABAMA
Plaintiffs)	AT LAW
VS)	
D. C. MCGOWAN,)	
Defendant)	CASE NO. 7232

DEMURRER

Comes the defendant in the above styled cause and demurs to the complaint heretofore filed in said cause by the plaintiffs and assigns, separately and severally, the following separate and several grounds therefor:

1. For that the allegations contained therein fail to state a cause of action against this defendant.
2. For that the allegations contained therein fail to show in what manner the plaintiff's cottage was damaged.
3. For that the allegations contained therein fail to show in what manner the personal contents of said cottage were damaged.
4. For aught that appears the personal contents of the cottage referred to in the complaint were not the property of the plaintiffs.
5. For that the defendant is not advised as to the damage which it is claimed defendant caused to said cottage.
6. For that the defendant is not advised as to the damage which it is claimed defendant caused to the personal contents contained in said cottage.
7. For that the defendant is not apprised as to the exact damage to the cottage of which plaintiffs complain and hence does not know in what he is called upon to defend.
8. For that the defendant is not apprised as to the exact damage to the personal contents contained in said

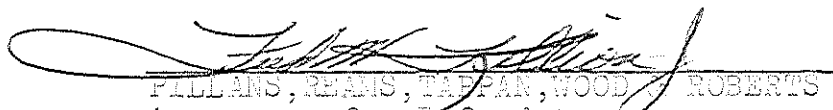
cottage of which plaintiffs complain and hence does not know in what he is called upon to defend.

9. From the allegations contained in said complaint the defendant does not know whether he is called upon to defend an action for breach of contract or one in tort.

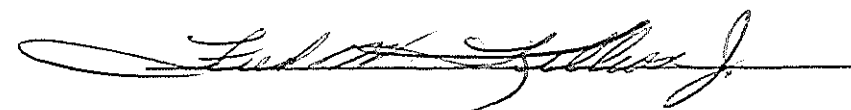
10. For that the only count as contained in said complaint is duplicitous.

11. From the allegations contained in the complaint it does not appear what duty, if any, was owed by the defendant to the plaintiffs as regards said cottage.

12. From the allegations contained in the complaint it does not appear what duty, if any, was owed by the defendant to the plaintiffs as regards the personal contents of said cottage.


FILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorneys for Defendant
BY: FRED W. KILLION, JR.

Defendant respectfully demands a trial by jury.


I, Fred W. Killion, Jr., attorney for defendant herein, hereby certify that I have mailed a copy of the foregoing Demurrer to Mr. Harry J. Wilters, Jr., attorney of record for the plaintiffs, Bay Minette, Alabama, on this 23rd day of November, 1966.

FILED
NOV 25 1966
CLERK
J. L. BUCK, REGISTER

DAVID ROGERS and MARGARET
E. ROGERS,

Plaintiffs,

vs.

D. C. MCGOWAN,

Defendant,

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X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 7232

Comes now the Plaintiffs in the above styled cause
and amends their Bill of Complaint to read as follows:

1.

The Plaintiffs claim of the Defendant the sum of
FOUR HUNDRED TWO AND 69/100 (\$402.69) DOLLARS, as damages
between the dates of July 17, 1966 and July 27, 1966. The
Defendant was occupying the cottage on Gulf Shores, Alabama,
which belonged to the Plaintiffs, and at said time and place
the Defendant did cause damages to the cottage and to the
personal contents therein in that they damaged the ceiling,
screens, plumbing, gliders on the screened in porch, mirror
and other articles therein, all to the loss of the Plaintiffs.

WILTERS & BRANTLEY

BY: [Signature]

Attorneys for the Plaintiffs

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 19th day of January,
1967 served a copy of the foregoing pleading in accordance with the
rules to this proceeding by mailing the same by United States
Mail, properly addressed, and first class postage prepaid.

WILTERS & BRANTLEY

[Signature]

FILED

JAN 19 1967

ALICE L. WICK, CLERK
REGISTERED

We the Jury find for
the plaintiffs and set
damages at \$402.69.

94 34

Walter M. John

RECEIVED
JAN 21 1904
COURT HOUSE
ST. LOUIS, MO.
FILED
JAN 21 1904
JAMES M. HARRIS
CLERK

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons D. C. McGowan, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the Complaint of David Rogers and Margaret E. Rogers.

Witness my hand, this the 27 day of Oct., 1966.

Alice J. Duck
Alice J. Duck, Clerk

DAVID ROGERS and MARGARET
E. ROGERS,

Plaintiffs,

vs.

D. C. MCGOWAN,

Defendant,

X

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X

X

X

1.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 7232

The Plaintiffs claim of the Defendant the sum of FOUR HUNDRED TWO AND 69/100 (\$402.69) DOLLARS, as damages between the dates of July 17, 1966 and July ²⁴~~2~~, 1966. The Defendant was occupying the Cottage on Gulf Shores, Alabama, which belonged to the Plaintiffs, and at the said time and place, the Defendant did cause damage to the Cottage and to the personal contents therein to the extent heretofore alleged.

WILTERS & BRANTLEY

BY:

Amy J. Wilters
Attorneys for the Plaintiffs

Defendants address is:
McGowan Investment Co., Inc.
311 Pine Hill Drive
Mobile, Alabama

FILED

OCT 27 1966

ALICE J. DUCK, CLERK
REGISTERED

RECEIVED

OCT 28 1966

TAYLOR VILKINS

Received 31 Day of October 1966
and on 2 Day of November 1966
I served a Copy of this on D. C. McGowan

by service on

RAY D. BRIDGES, Sheriff

BY Busby D.S.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. 2232

DAVID ROGERS and MARGARET E.
ROGERS,

Plaintiffs,

vs.

D. C. McGOWAN,

Defendant,

SUMMONS AND COMPLAINT

WILTERS & BRANTLEY
Attorneys at Law
Bay Minette, Alabama

FILED

OCT 27 1966

ALICE J. BUCK, CLERK
REGISTER

OCT 31 8 32 AM '66

REC'D. SHERIFF DEPT.
BALDWIN COUNTY, ALA.