

KENNETH COOPER  
ATTORNEY AT LAW  
109 EAST 1ST STREET  
BAY MINETTE, ALABAMA 36507  
TELEPHONE 937-7412  
4 March, 1969

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

Re: Smith, et al., vs.  
Baldwin County Electric  
Membership Corporation.

Dear Mrs. Duck:

A judgment, for \$200.00, was rendered in favor of the Plaintiffs in above-styled cause on 24 October, 1967. It was my understanding the judgment was to be remitted when Defendant paid the money into Court. But that has not been done. I do understand that the Defendant has paid the \$200.00 to you.

Would you, therefore, please make your check payable to Dorris A. Smith and Marie T. Smith, and mail it directly to Mr. Smith, whose address is Stockton, Alabama. Court costs were assessed against the Defendant.

Sincerely,

*Kenneth Cooper*  
Kenneth Cooper

KC/lb

cc: Mr. Dorris A. Smith and  
Marie T. Smith

724

*CS*

DORRIS A. SMITH and MARIE  
T. SMITH,

Plaintiffs,

VS

BALDWIN COUNTY ELECTRIC  
MEMBERSHIP CORPORATION,  
A Corporation,

Defendant.

X

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 7242

The Defendant, in the above styled cause, now files as  
to Counts One and Two of the Complaint as last amended the same  
pleas it filed to Count One of the original Complaint on October  
17, 1967.

*Chas. Stone & Chas.*  
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing  
pleading has been served upon counsel  
for all parties to this proceeding, by  
mailing the same to each by First Class  
United States Mail, properly addressed  
and postage prepaid on this 17 day  
of Oct, 1967.

*W. H. H. H.*

FILED

OCT 17 1967

ALICE J. DUCK

CLERK  
REGISTER

DORRIS A. SMITH and MARIE T.  
SMITH,

Plaintiffs,

vs.

BALDWIN COUNTY ELECTRIC MEMBER-  
SHIP CORPORATION, A Corporation,

Defendant.

\* \* \* \* \*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW                      NO. 7242

\* \* \* \* \*

PLEAS

\* \* \* \* \*

OCT 17 1967

ALICE J. DUCK      CLERK  
REGISTER

DORRIS A. SMITH and MARIE  
T. SMITH,

Plaintiffs,

Vs.

BALDWIN COUNTY ELECTRIC  
MEMBERSHIP CORPORATION, A  
Corporation,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 7242

AMENDED COMPLAINT

Come now the Plaintiffs in above-styled cause, and amend their complaint heretofore filed in this cause, so as to read as follows, to-wit:

COUNT ONE

The Plaintiffs claim of the Defendant Six Thousand Nine Hundred Forty and no/100 (\$6,940.00) Dollars, as damages for a trespass by the Defendant, or its agents, servants or employees while working within the line and scope of their employment, on the following tract of land, viz:

Southeast Quarter of the Southwest Quarter,  
Section 27, Township 1 North, Range 2 East,  
also described as the Southeast Quarter of  
the Southeast Quarter, Section 37, Township  
1 North, Range 2 East of James Cochrane  
Grant, lying in Baldwin County, Alabama,

said land belonging to your Plaintiffs, and for unlawfully cutting timber upon the said land, on or about the 24th day of February, 1966.

COUNT TWO

The Plaintiffs claim of the Defendant the sum of Six Thousand Nine Hundred Forty and no/100 (\$6,940.00) Dollars, as damages for that the Defendant, or its agents, servants or employees, while acting within the line and scope of their employment as such agents, servants or employees, on or about the 24th day of February, 1966, and on diver other days and times between that date and the commencement of this suit, wilfully and knowingly without the consent

Filed: October 17, 1967.

Deafair J. Maclellan  
Judge.

of the Plaintiffs, the Plaintiffs then and there being the owners of the lands, hereinafter described, and in possession thereof, unlawfully cut down, and caused to be destroyed three hundred forty-seven (347) pine trees belonging to the Plaintiffs, then growing and being upon the said following described lands owned by the Plaintiffs, said lands being situated in the Southeast Quarter of the Southwest Quarter, Section 27, Township 1 North, Range 2 East, said land also being described as the Southeast Quarter of the Southeast Quarter, Section 37, Township 1 North, Range 2 East, of James Cochrane Grant, lying in Baldwin County, Alabama, hence this suit in the amount sued for.


  
ATTORNEY FOR PLAINTIFFS

DORRIS A. SMITH and	X	
MARIE T. SMITH,	X	
	X	
Plaintiffs,	X	IN THE CIRCUIT COURT OF
	X	
	X	BALDWIN COUNTY, ALABAMA
vs.	X	
	X	AT LAW NO. 7242
BALDWIN COUNTY ELECTRIC	X	
MEMBERSHIP CORPORATION,	X	
	X	
Defendant.	X	

Comes the Defendant in the above styled cause and for plea to Count One of the Complaint says:

1. Not guilty.
2. That the allegations of the Complaint are untrue.
3. That the Defendant is a mutual membership corporation and was organized under the laws of the State of Alabama in 1937, at which time the Plaintiffs were resident citizens of Baldwin County, Alabama, residing in Stockton and desired electric service from the Defendant. That the Defendant erected a distribution line on and along the East right-of-way line of the lands of the Plaintiffs described in the complaint and on July 18, 1938 began to furnish electric service to such Plaintiffs. That the Plaintiffs continued to receive such service, except for possible short intervals, until December 14, 1965 and the Defendant has maintained such electric line from 1938 through December, 1965 for the benefit of the Plaintiffs and since that time, they have maintained such line and furnished the son of the Plaintiffs and his tenants with electric service. Shortly prior to September 11, 1948, the Defendant erected an additional distribution line running across the lands of the Plaintiffs described in the complaint but no pole was placed on their land. Subsequent to the erection of the last mentioned line in the year 1948, pine trees were

planted on said land of such Plaintiffs and they were planted under the lines of the Defendant over and along such land. During all of the time that the Defendant's lines have been in existence on such lands, from the year 1938, the Plaintiffs have not objected to the Defendant cutting and trimming the limbs from the large trees which grew on and along the original line and when it became necessary for the purpose of giving Plaintiffs proper electric service, to cut or trim the trees on or about February 24, 1966, the Plaintiffs made no objections to this being done. After such trees were cut and trimmed, the Plaintiffs executed a right-of-way easement to the Defendant over and along the lands described in the complaint with the right to trim trees a width of 10 feet along the East line of the property described in the complaint from the South line to the North line thereof and a strip 20 feet wide from the location of the power line now located running from Vaughn Road in a West-Northwest direction and terminating at Plaintiffs' tenant house now occupied by Wilmer Cooper, who is also being served by the Defendant with electric service. At the request of the Plaintiffs, the Defendant has also removed, at its own expense, the last erected extension which was built in 1948 so that no part of the same now goes over the Plaintiffs' property. That the extension erected in 1948 now serves 22 members. At the time such extension was erected in 1948, the Plaintiffs made no objection and since such date have not requested the removal of such line, during a period of about 18 years, until shortly prior to the filing of such suit. No trees or timber of material value were cut by the Defendant on the lands of the Plaintiffs.

  
Attorneys for Defendant  
**FILED**

OCT 17 1967

DORRIS A. SMITH and MARIE  
T. SMITH,

Plaintiffs,

vs

BALDWIN COUNTY ELECTRIC  
MEMBERSHIP CORPORATION,

Defendant.

\* \* \* \* \*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW            NO.    7242

\* \* \* \* \*

PLEA

\* \* \* \* \*



# SUMMONS AND COMPLAINT

STATE OF ALABAMA  
BALDWIN COUNTY

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

NO. \_\_\_\_\_

\_\_\_\_\_ TERM, 1966

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Baldwin County Rural Electrification Association, of Robertsdale, Alabama, 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 Baldwin County Rural Electrification Association, Defendant by Dorris A. Smith and Marie T. Smith, Plaintiffs.

WITNESS my hand this 4<sup>th</sup> day of Nov., 1966.

Alice J. Cook, CLERK.

\* \* \* \* \*

DORRIS A. SMITH and MARIE  
T. SMITH,

Plaintiffs,

VS.

BALDWIN COUNTY RURAL  
ELECTRIFICIAN ASSOCIATION,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 7242

COUNT ONE:

The Plaintiffs claim of the Defendant Six Thousand Nine Hundred Forty and 00/100 (\$6,940.00) Dollars, damages for a trespass by the Defendant, its agents, servants or employees, on the following tract of land, viz:

Southeast Quarter of the Southwest Quarter,  
Section 27, Township 1 North, Range 2 East,  
also described as the Southeast Quarter of  
the Southeast Quarter, Section 37, Township  
1 North, Range 2 East, of James Cochrane  
Grant, in Baldwin County, Alabama,

belonging to the Plaintiffs, and for cutting the timber on the 24<sup>th</sup>  
day of February, 1966.

COUNT TWO:

The Plaintiffs claim of the Defendant the sum of Six Thousand Nine Hundred Forty and 00/100 (\$6,940.00) Dollars damages for that

the Defendant, or its agents, servants, or employees on the 24<sup>th</sup> day of February, 1966, and on diver other days and times between that day and the commencement of this suit, willfully and knowingly without the consent of the Plaintiffs, and the Plaintiffs were then and there the owners of the land, cut down, and caused to be destroyed three hundred and forty-seven (347) pine trees belonging to the Plaintiffs, then growing and being upon the land of the Plaintiffs, situated in the Southeast Quarter of the Southwest Quarter, Section 27, Township 1 North, Range 2 East, also described as the Southeast Quarter of the Southeast Quarter, Section 37, Township 1 North, Range 2 East, of James Cochrane Grant, in Baldwin County, Alabama, and the Plaintiffs were, during said time, the owners of said land, hence the Plaintiffs bring this suit.

*Kenneth Cochrane*  
ATTORNEY FOR PLAINTIFFS

Ex-12-8-66

FILED

NOV 4 1966

ALICE L. DUCK, CLERK  
REGISTER

*Holt*

Defendant's Address:

Robertsdale, Alabama

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CASE NO. *2242*

\*\*\*\*\*

DORRIS A. SMITH and MARIE  
T. SMITH,

PLAINTIFFS,

VS.

BALDWIN COUNTY RURAL  
ELECTRIFICIAN ASSOCIATION,

DEFENDANT.

\*\*\*\*\*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

\*\*\*\*\*

*30*  
*8* *Nov.* *66*  
*Dec.* *66*  
*Baldwin County Rural*  
*Electrification Association*  
*Taylor Wilkins*  
*Deputy Sheriff*  
*Prison*

Sheriff claims *50* miles at  
Ten Cents per mile Total \$ *5.00*  
TAYLOR WILKINS, Sheriff  
BY *Charles Childers*  
DEPUTY SHERIFF

KENNETH COOPER  
ATTORNEY AT LAW  
109 EAST 131 STREET  
BAY MINETTE, ALABAMA

DORRIS A. SMITH and MARIE	)	IN THE CIRCUIT COURT OF
T. SMITH,	)	BALDWIN COUNTY, ALABAMA
Plaintiffs,	)	AT LAW
Vs.	)	CASE NO. <u>7242</u>
BALDWIN COUNTY RURAL	)	
ELECTRIFICIAN ASSOCIATION,	)	
Defendant.	)	

AMENDMENT TO COMPLAINT

Comes now the Plaintiffs in above styled cause, by their attorney of record, Kenneth Cooper, and amend their complaint heretofore filed in this cause on 4 November, 1966, by deleting the words "Baldwin County Rural Electrification Association, Defendant" in the SUMMONS and COMPLAINT, and substituting in lieu thereof the words "Baldwin County Electric Membership Corporation, A Corporation, Defendant"; in all other respects the complaint remains unchanged.

*Kenneth Cooper*  
ATTORNEY FOR PLAINTIFFS

I hereby certify that I have served a copy of the foregoing AMENDMENT TO COMPLAINT on Hon. John Chason, Attorney At Law, Bay Minette, Alabama, counsel for the defendant herein by depositing a copy of same in the United States mail at Bay Minette, Alabama, addressed to him as above indicated by first class mail, postage prepaid, on this 27<sup>th</sup> day of December, 1966.

**FILED**

DEC 27 1966

ALICE I. DUCK, CLERK  
REGISTER

*Kenneth Cooper*  
ATTORNEY FOR PLAINTIFFS