

3220

SMITH, HAND, ARENDALL & BEDSOLE
LAWYERS

HARRY H. SMITH
COUNSELOR
CHAS. C. HAND
C. B. ARENDALL, JR.
T. MASSEY BEDSOLE
THOMAS G. GREAVES, JR.
WM. BREVARD HAND
VIVIAN G. JOHNSTON, JR.
J. JEPHTHA HILL

SUITE 622 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

March 18, 1954

MAILING ADDRESS

P. O. BOX 123
MOBILE, ALA.

CABLE ADDRESS:
HAB

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

Dear Mrs. Duck:

Re: Ogburn Brothers vs. Ben H. Huxford, et al.

I am enclosing herewith the original and two copies of a bill of complaint in this case, with the request that the same be filed.

You will note that service should be effected on Emmitt Stokes by personal service and that service should be effected on Ben H. Huxford by Registered Mail, as provided in Section 2, Sub-paragraph (b) of Equity Rule 5.

If there is any question about how this should be done in order to effect proper service, I would appreciate your letting me know.

Meanwhile, I am enclosing an extra copy of this letter with the request that you indicate on it that the suit has been duly filed and then return such extra copy to me.

Yours very truly,



for SMITH, HAND, ARENDALL & BEDSOLE

CBA.ps
Encls.

SMITH, HAND, ARENDALL & BEDSOLE
LAWYERS

HARRY H. SMITH
COUNSELOR
CHAS. C. HAND
C. B. ARENDALL, JR.
T. MASSEY BEDSOLE
THOMAS G. GREAVES, JR.
WM. BREVARD HAND
VIVIAN G. JOHNSTON, JR.
J. JEPHTHA HILL

SUITE 622 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

MAILING ADDRESS

P. O. BOX 123
MOBILE, ALA.

CABLE ADDRESS:
HAB

March 18, 1954

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

Dear Mrs. Duck:

Re: Ogburn Brothers vs. Ben H. Huxford, et al.

I am enclosing herewith the original and two copies of a bill of complaint in this case, with the request that the same be filed.

You will note that service should be effected on Emmitt Stokes by personal service and that service should be effected on Ben H. Huxford by Registered Mail, as provided in Section 2, Sub-paragraph (b) of Equity Rule 5.

If there is any question about how this should be done in order to effect proper service, I would appreciate your letting me know.

Meanwhile, I am enclosing an extra copy of this letter with the request that you indicate on it that the suit has been duly filed and then return such extra copy to me.

Yours very truly,



for SMITH, HAND, ARENDALL & BEDSOLE

CBA.ps
Encls.

Delivered to Mrs. Duck by Mr. H. H. Smith

Encls.
CBV. AS
CBV. AS

FOR SMITH, HAND, WHEEDMAN & BEDDORE

Copy

Yours very truly,

filled and then return such extra copy to me.

the request that you indicate on it that the suit has been duly

Meanwhile, I am enclosing an extra copy of this letter with

me know. I would appreciate your stating

It, please to any question about how this should be done in

(P) of January 2.

Myself as registered with, as provided in Section 8, 2nd paragraph

by persons who receive and that service should be rendered on the 1st of

you will note that service should be

re filed.

Bill of complaint in this case, with the copies of the same

I am enclosing herewith the original and

Dear Mrs. Duck:

My Minette, Wisconsin

Circuit Court of Belknap County

Mrs. Alice J. Duck, Clerk

1. LETHA HILL
2. LETHA HILL
3. LETHA HILL
4. LETHA HILL
5. LETHA HILL
6. LETHA HILL
7. LETHA HILL
8. LETHA HILL
9. LETHA HILL
10. LETHA HILL

March 18, 1924

AMARU. ALGAL. BOM
SUITE 222 FIRST NATIONAL BANK BUILDING

283YUWAL
S. SMITH, HAND, WHEEDMAN & BEDDORE

MAILING ADDRESS
EST. BOX 151
MOBILE, ALA.
CABLE ADDRESS:
HAB

Ugburn Brothers
V.S.
Ben A. Hurford
& Emmett Stokes

3220
~~No 3220~~

32-20

Form 3811
Rev. 1-52

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the number of which appears on the face of this Card.

1

(Signature or name of addressee)

2

(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery 3-22-54, 19

Post Office Department
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

(GPO)

POSTMARK OF DELIVERING
OFFICE



Return to

Annie J. Duck
(NAME OF SENDER)

Street and Number,
or Post Office Box,

REGISTERED ARTICLE

No.

INSURED PARCEL

Post Office

Bay Minette
State *Ala.*

No.

16-12421

OGBURN BROTHERS, a partnership
composed of A. P. Ogburn and
R. W. Ogburn, Jr.,

COMPLAINANTS

VS

BEN H. HUXFORD, formerly doing
business under the name of
Sportsman's Store and ERNEST
STOKES, doing business under
the name of Stokes Sport Shop,

RESPONDENTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. _____

Comes now Ernest Stokes, one of the Respondents in the above styled
cause and demurs to the Complainant's bill of complaint and for grounds
of demurrer says as follows:

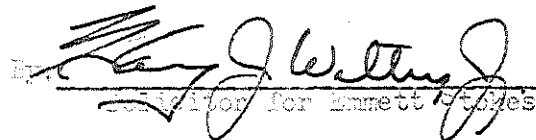
1.

There is no equity in the bill of complaint.

2.

That the Complainant has an adequate remedy at law.

Walters & Brantley


Attorney for Ernest Stokes

3222

OGBURN BROTHERS, a partnership
composed of: A. P. Ogburn and
R. W. Ogburn, Jr.,

COMPLAINANTS

VS

BEN H. HUXFORD, formerly doing
business under the name of Sports-
man's Store and HARTT STOKES,
doing business under the name of
Stokes Sport Shop.

RESPONDENTS

DEBITORS

FILED

APR 16 1954

ALICE L. BUCK, Clerk

OGBURN BROTHERS, a partnership
composed of A. P. Ogburn and
R. W. Ogburn, Jr.,

Complainants,

Vs.

BEN H. HUXFORD, formerly doing
business under the name of
Sportsman's Store and EMMITT
STOKES, doing business under
the name of Stokes Sport Shop,

Respondents.

§
§
§
§
§
§
§
§
§
§
§

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY NO. _____.

B I L L O F C O M P L A I N T

TO THE HONORABLE THE JUDGE OF SAID COURT, IN EQUITY SITTING:

Ogburn Brothers, a partnership composed of A. P. Ogburn and R. W. Ogburn, Jr., exhibits this their bill of complaint and respectfully represent and state as follows:

1. That Ogburn Brothers is a partnership consisting of A. P. Ogburn and R. W. Ogburn, Jr., with its principal place of business at Mobile, Alabama; that Ben H. Huxford was at the time of the matters herein complained of a resident citizen of the Town of Fairhope, Alabama, and was the owner and operator of the Sportsman's Store located in the Town of Fairhope, Baldwin County, Alabama; that Emmitt Stokes is a resident citizen of Fairhope, Alabama, and is the owner and present operator of Stokes Sport Shop, located in the Town of Fairhope, Baldwin County, Alabama; that all parties herein are over the age of twenty-one (21) years; that the complainants reside at Mobile, Alabama; that Emmitt Stokes resides at Fairhope, Baldwin County, Alabama; and, that Ben H. Huxford is presently residing at 159 East Main Street, Fort Walton, Florida.

2. That on and prior to December 1, 1953, the said Ben H. Huxford, doing business as the Sportsman's Store, was indebted to the complainants for goods, wares and merchandise sold him by the said complainants in the sum of One Thousand, Four Hundred Thirty-Eight and 76/100 (\$1,438.76) Dollars, all of which was then and is

still past due and unpaid; that on, to-wit, January 4, 1954, respondent Ben H. Huxford, doing business as the Sportsman's Store did enter into an agreement with the said Emmitt Stokes for the sale and transfer to the said Emmitt Stokes of the business known as the Sportsman's Store, including the merchandise thereof, and did, in fact, on, to-wit, said date, convey to the said Emmitt Stokes the said business known as the Sportsman's Store, including the merchandise thereof; and that the said Emmitt Stokes is now operating the same under the name and style of Stokes Sport Shop.

3. That said conveyance was a part of a scheme to place assets of the said Ben H. Huxford beyond the reach of your complainants and to hinder, delay or defraud them from being able to collect said indebtedness; that said sale was not made by the said Ben H. Huxford in the ordinary course of his trading under the name and style of Sportsman's Store, or in the regular and usual prosecution of his said business; that said sale was of the entire stock of merchandise in bulk or substantially in bulk of said business; that at no time prior to said sale did the said Ben H. Huxford or the said Emmitt Stokes notify the complainants of the proposed sale and of the cost price of the merchandise proposed to be sold and of the price to be paid therefor by the proposed purchaser; and that said sale was made in violation of, and without complying with, the Alabama Bulk Sales Act, more particularly known as Section 10 of Title 20 of the Code of Alabama of 1940, as amended.

PRAYER FOR PROCESS

The premises considered, your complainants pray that the said Ben H. Huxford and Emmitt Stokes be made parties respondent to this their bill of complaint; and that the proper summons be issued to Emmitt Stokes requiring him to plead, answer or demur to this complaint within the time provided by law and that the said Ben H. Huxford be made a party by serving proper process upon him as provided in Equity Rule 5 Section 2, Sub-paragraph (b) by mailing to him by Registered Mail, postage prepaid marked "deliver only to the person

to whom addressed" a copy of this bill of complaint, which fact of known residence is sworn to as required by law by the affidavit of Charles B. Arendall attached hereto and made a part hereof.

PRAYER FOR RELIEF

Your complainants further pray that, upon the hearing hereof, the court will adjudge and decree that said Ben H. Huxford is indebted to complainants in said sum of One Thousand, Four Hundred Thirty-Eight and 76/100 (\$1,438.76) Dollars, plus the interest thereon from, to-wit, December 1, 1953; that said sale was and is fraudulent and void as against your complainants; that said purchaser holds the merchandise purportedly so sold to him, in trust, as trustee for the benefit of your complainants; that said purchaser is liable to your complainants for said indebtedness; that your complainants have a lien upon said merchandise; that said merchandise shall be condemned for the payment of said indebtedness, and if said indebtedness is not paid within such time as this court shall stipulate in said decree, then that said merchandise shall be sold under decree of this court for the payment of said indebtedness and the costs and expenses of this proceeding; that said purchaser shall be required to account to your complainants for any of said merchandise, and the proceeds thereof, disposed of by him since said purported sale; and your complainants further pray for such other, further or different relief as they may be entitled to receive, the premises considered.

Smith, Hand, Arendall, Bedall
Solicitors for Complainants.

STATE OF ALABAMA,
COUNTY OF MOBILE.

Personally appeared before me E. Allen P. Davis,
a Notary Public in and for said County in said State, June 16,
Arendall, one of the Solicitors of Record
for the Complainants in the above entitled cause, who being duly
sworn, deposes and says that he is informed and verily believes that
Ben H. Huxford, one of the respondents in the above styled cause,
is a non-resident of the State of Alabama and whose residence and
Post Office address is 159 East Main Street, Ft. Walton, Florida;

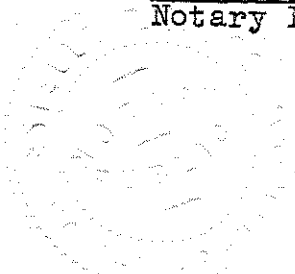
and that said Respondent is over the age of twenty-one (21) years.

BOOK 019 PAGE 16

Charles B. Chandler
Affiant

Sworn to and subscribed before me on
this 18th day of March, 1954.

Walter P. Swann
Notary Public, Mobile County, Alabama.



SUMMONS

Form 1531-3

McQuiddy Printing Co., Nashville, Tenn.

The State of Alabama, _____ County

IN CIRCUIT COURT, IN EQUITY

To any Sheriff of the State of Alabama—Greeting:

You are hereby commanded to summon _____

*Ben Huxford &
Emmitt Stokes*

to appear and answer, plead, or demur, within thirty days from the service hereof, to a Bill of Complaint filed in said Circuit Court, in equity, for said County of said State. _____ by _____

OGBURN BROTHERS, a partnership composed of A. P. OGBURN and R. W. OGBURN

against Ben H Huxford, formerly d/b/a under the name of SPORTSMANS STORE and

EMMITT STOKES d/b/a STOKES SPORT SHOP

Herein fail not. Due return make of this writ as the law directs.

Witness this 19th day of March, 1954

Alvin J. Huxford, Register.

(Defendant is entitled to a copy of the bill on application to the Register.)

Code 1923-6523-6529

OGBURN BROTHERS, a partnership	0	
composed of A. P. Ogburn and	0	
R. W. Ogburn, Jr.,	0	IN THE CIRCUIT COURT OF
	0	
COMPLAINANTS	0	BALDWIN COUNTY, ALABAMA,
	0	
VS	0	IN EQUITY
	0	
BEN H. HUXFORD, formerly doing	0	
business under the name of	0	
Sportsman's Store and EMMITT	0	
STOKES, doing business under	0	
the name of Stokes Sport Shop,	0	
	0	
RESPONDENTS.	0	

ANSWER

Now comes Emmitt Stokes, one of the Respondents in the above styled cause and for answer to the Complainants bill of complaint says:

1.

That he admits the allegations contained in Section 1 of the Bill of Complaint.

2.

That he admits he purchased the merchandise located in the Sportsman's store in Fairhope, Alabama. Not being informed of the other allegations in the second section of the bill of complaint he denies them and demands strict proof of the same.

3.

For answer to the Third Section of the Bill of Complaint Emmitt Stokes, says, that he had no knowledge of an indebtedness by Ben H. Huxford to the Complainants in this cause. That he did not knowingly, willingly nor fraudulently purchase the merchandise in the Sportsman's Store with intent to delay, hinder or defraud anyone.

Walters & Brantley

BY:

Walter M Brantley
Solicitor for the Respondent,
Emmitt Stokes.

3220

RECORDED

Answer

FILED

JUL 20 1954

register