

3329

SAMUEL HORACE et al.,  
Complainants and  
Cross-Respondents,  
vs.  
EZELLE ANDERSON et al.,  
Respondents and  
Cross-Complainants.

BOOK 023 PAGE 103

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

Comes now the Respondents Ezelle Anderson and Lorenza Anderson by their Solicitors and for answer to the amended Bill of Complaint heretofore filed in this cause say as follows:

1. The Respondents admit that each of the named Complainants are over the age of twenty-one years but they deny that Hosey Horace resides in Stockton, Alabama, that Simon Horace resides in Stockton, Alabama or that Collins Horace resides in Stockton, Alabama. That they do not know Levena Knight whose residence is shown as Stockton, Alabama, and they neither admit or deny the allegations relative to her age and residence, neither do they admit or deny the allegations relative to Automese Ramsey because they neither are acquainted with, nor informed of the residence of said Complainant.

2. The Respondents admit the allegations of Paragraph "2." of the amended Bill of Complaint.

3. The Respondents deny the allegations of Paragraph "3." of the amended Bill of Complaint.

4. The Respondents admit the allegations of Paragraph "4." of the amended Bill of Complaint.

5. The Respondents admit the allegations contained in Paragraph "5." of the Bill of Complaint but they deny that the Complainants are vested with the entire title to the property described in said Bill of Complaint.

6. The Respondents deny the allegations of Paragraph "6." of the amended Bill of Complaint, and for further answer thereto allege that Collins Horace died intestate leaving four children: Savage Horace, Rose Horace, Cora Horace Nichols and Eula Horace Anderson.

7. The Respondents admit the allegations of Paragraph "7." of the amended Bill of Complaint except the allegation to the effect that Dariman Cooper and Leander Cooper were surviving children of

Rose Horace of which allegation the Respondents have no knowledge and they neither admit or deny the same.

8. The Respondents admit the allegations of Paragraph "8." of the amended Bill of Complaint that Savage Horace is now dead and left surviving him Samuel Horace, Sara Williams, Iola Williams, Collins Horace, Simon Horace, Lee Ethel Gilcrease, Alberta Williams and Hosey Horace. The Respondents deny that Levena Knight or Automese Ramsey were children of Savage Horace but for further answer allege that Savage Horace had two other children surviving him by the name of Melvina Nye and Alta Mees.

9. The Respondents deny the allegations of Paragraph "9." of the amended Bill of Complaint wherein it is alleged that Eula Horace Anderson was not a daughter of Collins Horace and they admit all of the other allegations of Paragraph "9."

10. The Respondents admit the allegations of Paragraph "10." of the amended Bill of Complaint.

For further answer to the amended Bill of Complaint the Respondents Ezelle Anderson and Lorenza Anderson respectfully represent and show unto this Honorable Court as follows:

FIRST:

That they are children of Eula Horace Anderson, deceased, who was a daughter of Collins Horace, deceased, who was, at the time of his death, the owner of the real property described in the amended Bill of Complaint heretofore filed against them. That both Collins Horace and Eula Horace Anderson died intestate and that Collins Horace predeceased Eula Horace Anderson. That besides your Respondents the said Eula Horace Anderson left surviving her the following children: Calvin Anderson, Arthur Anderson, Ida Mae Smith, and Dessie Mae Anderson. That Dessie Mae Anderson is now deceased and she left surviving her as her sole and only heir at law and next of kin one child, Eula Nye.

SECOND:

That beside the mother of your Respondent Collins Horace left surviving him three other children: Savage Horace, Rose Horace and Cora Horace Nichols. That all of said other children are now

dead and they died intestate.

THIRD:

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That Savage Horace left surviving him ten children: Samuel Horace, Hosea Horace, Simon Horace, Collins Horace, Melvina Nye, Iola Williams, Sarah Williams, Lee Ethel Gilcrease, Elberta Williams and Alta Mees. That Elberta Williams is now dead and she left surviving her, her husband, Abraham Williams, who is still living, and one daughter, Lois Williams, who is married to Bradford Williams. That Hosea Horace resides in Monticello, New York: Simon Horace and Collins Horace reside in the State of New Mexico but their particular address is unknown to your Respondents. That Lee Ethel Gilcrease resides in Prichard, Mobile County, Alabama but her particular address is unknown to your Respondents. That Samuel Horace, Melvina Nye, Iola Williams, Sarah Williams and Alta Mees reside in Stockton, Baldwin County, Alabama.

FOURTH:

That Rose Horace left surviving her two children, Edrina Ellis and Viola Valree. That Edrina Ellis lives in Mobile, Alabama but her particular address is unknown to your Respondents. That Viola Valree also resides in Mobile, Alabama but her particular address is unknown to your Respondents. That your Respondents do not know whether Rose Horace was married at the time of her death but they are informed and believe, and upon such information and belief allege, that Rose Horace was not married at the time of her death and left no husband surviving her who is still living.

FIFTH:

That Cora Horace Nichols left surviving her one child, Lear Lee Forest who resides in Prichard, Mobile County, Alabama, but whose particular address is unknown to your Respondents.

SIXTH:

That all of the heirs at law and next of kin of Collins Horace, Deceased, are over the age of twenty-one years and of sound mind.

SEVENTH:

That Leah Horace, the wife of Collins Horace, deceased, is dead and that she left surviving her, besides the four children:

hereinabove named, two illegitimate children; Simon Fields and Camilla Fields Cobb. That Simon Fields is dead, having departed this life in October of 1955. That Camilla Fields Cobb resides in Stockton, Alabama, and that she is over the age of twenty-one years.

EIGHTH:

That the said Collins Horace, deceased, resided on the land described in the Bill of Complaint and it was his homestead at the time of his death; that he owned no other land at the time of his death and there was no administration on the estate of the said Collins Horace, deceased, and the only heirs at law and next of kin of said Collins Horace, were his wife, Leah Horace and the above named children who were all minors on the date of the death of Collins Horace. That said property has not been set apart to the widow and minor children as the homestead, exempt to them under the laws of the state of Alabama then in force and effect. That the value of said property was less than \$2,000.00 and it did not exceed in area 160 acres.

NINTH:

That the title to the property described in the Bill of Complaint vested absolutely in Leah Horace, the widow of Collins Horace, deceased, and the four minor children hereinabove named on the date of the death of the said Collins Horace. That the mother of your Respondents acquired thereby one-fifth interest in said property which said undivided interest descended to your Respondents on the death of their said mother and that each of your Respondents now owns an undivided 1/30th interest in said property as tenants in common with the other heirs at law and next of kin of said Collins Horace, deceased, having acquired said interest by descent from their mother, plus an additional undivided 1/180th interest which they acquired on the death of Leah Horace by virtue of the descent of the undivided 1/30th interest owned by her to her six children, or their heirs, making a total interest now owned by each of your Respondents of 7/180th. That your Respondents allege and insist that their mother Eula H. Anderson was a child of Collins Horace and they specifically deny that their mother was not a child of Collins Horace, deceased; but if they are mistaken in their contention in this regard they are nevertheless, tenants in common with the other heirs at law and next of kin of Collins Horace, deceased in said property by virtue of the

BOOK 027 PAGE 105

fact that the title thereto vested absolutely in the widow of Collins Horace, Leah Horace, and his children and that their mother, as an illegitimate child of Leah Horace, deceased, inherited the undivided interest of their mother along with her other children, both legitimate and illegitimate, and if such be the case as determined by this Honorable Court, that they will each have an undivided 1/108th interest, having acquired an undivided 1/6th of an undivided 1/18th interest from their mother Eula Horace Anderson, who, along with Savage Horace, Rose Horace, Cora Horace Nichols, Simon Fields and Camilla Fields Cobb, inherited an undivided 1/6th interest of an undivided 1/3rd interest in said property and the said Leah Horace owned at the time of her death by virtue of the vesting in her of an undivided 1/3rd interest in said property along with Savage Horace and Rose Horace, on the death of the said Collins Horace, deceased.

TENTH:

That said property comprises a little more than 18 acres and that there is located thereon a house and because of the improvements thereon, the limited amount of acreage and the numerous holders of the title thereto that said property cannot be equitably partitioned or divided without a sale thereof and a division of the proceeds among the joint owners.

ELEVENTH:

That it was necessary that your Respondents employ Solicitors for the purpose of filing this answer and cross-bill and to that end they have employed the firm of Chason & Stone of Bay Minette, Alabama.

PRAYER FOR PROCESS

The premises considered your Respondents, Ezelle Anderson and Lorenza Anderson respectfully pray that this answer and the allegations contained herein will be taken as a cross-bill and that the Complainants be required to plead, answer or demur thereto within the time allowed by the law and the rules of this Honorable Court, and that each of said Complainants, together with the brothers and sisters of your Respondents who have not joined in this answer and cross-bill be made parties Cross-Respondent.

PRAYER FOR RELIEF

BOOK 023 PAGE 102

The premises considered your Respondents respectfully pray that upon a final hearing of this cause that this Honorable Court will make and enter a decree granting relief to the Respondents and Cross-Complainants as follows:

a. Ascertaining and declaring that Eula Horace Anderson was a daughter of Collins Horace, deceased.

b. Ascertaining and declaring the descent of the title to the real property which is the subject of this litigation upon the respective deaths of Collins Horace, Leah Horace, Rose Horace, Cora Horace Nichols, Eula Horace Anderson, Savage Horace and Simon Fields and declaring the proportions in which the said title descended, respectively, to the widow and heirs at law and next of kin of Collins Horace, deceased, and to each of his children or their heirs.

c. Ascertaining and declaring, if it be first ascertained that neither Cora Horace Nichols nor Eula Horace Anderson were children of Collins Horace, deceased, the descent of the title to the real property which is the subject of this litigation and declaring the proportion in which said title descended, respectively, to the heirs of Collins Horace, deceased; Leah Horace, Savage Horace, Rose Horace, Cora Horace Nichols, Eula Horace Anderson and Simon Fields.

d. Ascertaining and declaring that your Respondents and Cross-Complainants are joint owners and tenants in common with the Complainants and that the property which is the subject of this litigation cannot be equitably divided without a sale thereof and a division of the proceeds.

e. Directing and ordering the sale of the property which is the subject of this litigation for a division of the proceeds thereof among the owners thereof and ordering the register of this Court to proceed with such a sale in accordance with the statutes in such cases made and provided and with the rules of this Honorable Court.

f. Ascertaining and declaring the amounts due to be paid out of the proceeds of such sale of said property for division, to Chason & Stone, the Solicitors for the Respondents and Cross-Complain-

ants, for their services.

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And if your Respondents and Cross-Complainants are in any wise mistaken in the relief to which they are entitled hereunder, they pray for such other further and different relief as in the premises will be meet and proper.

Respectfully Submitted,

CHASON & STONE

By: *Malcolm G. Stone*  
Solicitors for Respondents and Cross-Complainants

*I, J Albert M Brantley, one of the attorneys for the complainant, hereby accept service of the foregoing answer and cross-bill, this the 22 day of May 1956.*

*J Albert M Brantley*

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SAMUEL HORACE,  
Complainant,

VS.

EZELLE ANDERSON, ET AL.,  
Respondents.

)  
) IN THE  
) CIRCUIT COURT OF BALDWIN COUNTY,  
) ALABAMA. IN EQUITY  
)

3329

It appearing to the Court that this cause was filed on October 6, 1954 and that since that time no effort has been made towards a final conclusion of the case.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that this matter be set down for the taking of testimony and a final submission on Wednesday, November 6, 1957, at 9:00 o'clock A. M. in the Court Room at Bay Minette, Alabama.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the parties to this action, together with their respective Solicitors of Record be given notice of this setting.

Dated at Bay Minette, Alabama, this 15th day of October, 1957.

*Robert M. Stone*  
\_\_\_\_\_  
Judge, 28th Judicial Circuit  
of Alabama.

FILED  
OCT 16 1957  
ALABAMA

SAMUEL HORACE, ET AL,	Ø	IN THE CIRCUIT COURT OF
COMPLAINANTS	Ø	BALDWIN COUNTY, ALABAMA,
VS	Ø	IN EQUITY
EZELLE ANDERSON, ET AL,	Ø	CASE NO. 3329
RESPONDENTS	Ø	

FINAL DECREE AND DECLARATORY JUDGMENT

This cause coming on to be heard for final decree is submitted for decision of the court upon the Bill of Complaint, a decree pro confesso against Calvin Anderson and a consent judgment against Ezelle Anderson and Lorenza Anderson made in open court by the Solicitors for them, and the testimony as noted by the Register and upon consideration of the same, It is Ordered, Adjudged, Decreed, and declared as follows:

1. That Collins Horace died intestate leaving two children only, Rosa Horace and Savage Horace.
2. That Rosa Horace died intestate leaving surviving her the following named children: Edrena Ellis, Viola Cooper, Dariman Cooper and Leander Cooper; that Leander Cooper is now dead and died without issue.
3. That Savage Horace died intestate and left surviving him the following named children: Samuel Horace, Sarah Williams, Levena Nye, Iola Williams, Alta Mees, Collins Horace, Simon Horace, Lee Ethel Gilcrease, Alberta William, Hosey Horace; that Alberta Williams died intestate and left surviving her one child, Delores Williams.
4. That the Complainants in this cause are the sole and legal heirs of Collins Horace and are tenants in common and joint owners of the following described land to-wit:
 

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning, in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.
5. That the Respondents, Ezelle Anderson, Lorenza Anderson and Calvin Anderson are not the decendants of Collins Horace and own no interest in the above described land.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT THE Complainants in  
this cause be taxed with the cost for which let execution issue.

Done this the 20 day of December, 1957.

Hubert M. Hall  
JUDGE

SAMUEL HORACE, ET AL,  
COMPLAINANTS

VS

EZELLE ANDERWON, ET AL,  
RESPONDENTS

FINAL DECREE AND DECLARATORY  
JUDGMENT

FILED

DEC 20 1957

ALICE J. DUCK, Register

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon EZELLE ANDERSON, CALVIN ANDERSON, LORENZA ANDERSON, ARTHUR ANDERSON, IDA MAE SMITH, EULA NYE, to appear, plead, answer or demur, within thirty days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by Samuel Horace, et al, as Complainants and against Ezelle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith, Eula Nye, as Respondents.

WITNESS my hand this 14 day of Aug, 1954.

Samuel Horace  
Register

SAMUEL HORACE, ET AL,  
COMPLAINANTS

VS

EZELLE ANDERSON, ET AL,  
RESPONDENTS

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
IN EQUITY  
CASE NO. \_\_\_\_\_

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

The Complainant respectfully represents and show unto your Honor as follows:

1.

That the Complainants are each over the age of twenty-one years and reside as follows: Edrena Ellis, Mobile, Alabama; Viola Cooper, Mobile, Alabama; Dariman Cooper, Mobile, Alabama; Samuel Horace, Stockton, Alabama; Sarah Williams, Stockton, Alabama; Levena Knight, Stockton, Alabama; Iola Williams, Stockton, Alabama; Automese Ramsey, Stockton, Alabama; Collie Horace, Stockton, Alabama; Simon Horace, Stockton, Alabama; Lee Ethel Gilcrese, Mobile, Alabama, Deloras Williams, Stockton, Alabama, Hosey Horace, Stockton, Alabama.

2.

That the Respondents are over the age of twenty-one years and reside as follows: Ezelle Anderson, Stockton, Alabama; Calvin Anderson, Stockton, Alabama, Lorenza Anderson, Stockton, Alabama; Arthur Anderson, Stockton, Alabama; Ida Mae Smith, Mobile, Alabama; Eula Nye, Mobile, Alabama.

3.

That the Complainants are the sole owners of the following described land, to-wit:

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning, in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

4.

That the Respondents are claiming title to the lands described in Section Three of this complaint, as tenants in common with the Complainants.

5.

That the Complainants obtained their title to the aforesaid land by descent and distribution from Collin Horace who was their grandfather and great grandfather.

6.

That Collin Horance died leaving two children only: Rosey Horace and Savage Horace.

7.

That Rosey Horace died and left surviving her the following named children: Edrena Ellis, Viola Cooper, Dariman Cooper, Leander Cooper. That Leander Cooper is now dead and died without issue.

8.

That Savage Horace is now dead and left surviving him the following named children: Samuel Horace, Sarah Williams, Levena Knight, Iola Williams, Automese Ramsey, Collie Horace, Simon Horace, Lee Ethel Gilcrese, Alberta Williams and Hosey Horace. That Alberta Williams is now dead and left surviving her one child, Deloras Williams.

9.

That the Respondents now claim to be tenants in common with the Complainants asserting that Eula Horace, the Respondents' mother and grandmother, is a child of Collins Horace, where in truth and fact she is not.

10.

That there is subsisting an actual justiciable controversy between the Complainants and the Respondents on which substantial property rights are dependent.

WHEREFORE, the premises considered, your Complainant prays that your Honor will by proper process make the said Ezelle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith, Eula Nye, party respondents to this bill of complaint requiring them, and each of them, to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainants further pray that upon a final hearing hereof, Your Honor will render a declaratory judgment and decree stating:

a. Whether or not the Respondents named herein are legal heirs of Collins Horace, deceased, and if so what are their property rights in and to the land described in Section Three of the Bill of Complaint.

b. Whether or not the Complainants are the sole legal heirs of Collins Horace, deceased, and if so what are their property rights in and to the land, the subject matter of this suit, to-wit:

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

Complainants pray for such other further or different relief as may be just and proper.

Winters & Brantley

BY:

*Albert M Brantley*  
Solicitor for the Complainants

Received in Sheriff's Office  
this 14 day of Aug. 1954  
TAYLOR WILKINS, Sheriff

Received \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
and on 19 day of Aug. 1954

I served a copy of the within \_\_\_\_\_  
on \_\_\_\_\_

By service on \_\_\_\_\_  
Taylor Wilkins  
TAYLOR WILKINS, Sheriff  
By J. P. Horn D. S.

On 19 Aug. 1954  
following persons  
was named \_\_\_\_\_

- Ezelle Anderson
- Calvin Anderson
- Laenza Anderson

3329

Samuel Horace  
et al

vs.

Simon Fields  
et al

Received \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
and on \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

I served a copy of the within \_\_\_\_\_  
on \_\_\_\_\_

By service on \_\_\_\_\_  
TAYLOR WILKINS, Sheriff  
By \_\_\_\_\_ D.

FILED  
AUG 14 1954  
ALICE J. DUCK, Register

3329

Handwritten signature or text, possibly "James M. ..."

CIRCUIT COURT COMPLAINT

Printed by the Baldwin Times, Bay Minette, Alabama.

Samuel Horace, et al,  
Complainant,  
Vs. Ezelle Anderson, et al,  
Respondent.

In the Circuit Court.  
In Equity No. \_\_\_\_\_.

DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Respondent \_\_\_\_\_  
Calvin Anderson

by the Sheriff of Baldwin County, on the 19th day of August,  
19~~5~~ 54.

And it further appears to the Register, that that the said \_\_\_\_\_  
Calvin Anderson

\_\_\_\_\_ the Respondent, having to the date hereof,  
failed to plead, demur to or answer the Bill of Complaint filed in this cause, it is now, therefore,  
on motion of Wilters and Brantley Solicitors  
for Complainant, ordered, and decreed by the Register that the Bill of Complaint in this cause be,  
and it hereby is, in all things taken as confessed against the said \_\_\_\_\_

Galvin Anderson

This 18 day of Dec, 1957

Wiley J. Duck  
Register.

No. 3329

**CIRCUIT COURT OF  
BALDWIN COUNTY,  
ALABAMA.  
IN EQUITY**

Samuel Horace, et al

Complainant,

Vs.

Ezelle Anderson, et al

Respondent.

**DECREE PRO CONFESSO ON  
PERSONAL SERVICE.**

Issued this 18 day of Dec

1947.

*George J. Duke*  
Register.

THE STATE OF ALABAMA,  
Baldwin County

No. 3329 Circuit Court, In Equity.

Samuel Horace, et al,

Complainant

Vs.

Ezelle Anderson, et al,

Defendant

Motion is hereby made for a Decree Pro Confesso against Calvin Anderson

Defendant

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant ...; and that said summons was duly served according to law, and that said Defendant... has failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This 17 day of Dec 19 57

*G. M. B...*  
Solicitor.

FILED  
NOV 11 1957  
CLERK OF COURT  
BALDWIN COUNTY ALABAMA

\$5.00

SAMUEL HORACE, ET AL.,	}	
	}	IN THE
Complainants,	}	CIRCUIT COURT OF BALDWIN COUNTY,
VS.	}	ALABAMA. IN EQUITY.
EZELLE ANDERSON, ET AL.,	}	
	}	
Respondents.	}	

TESTIMONY TAKEN IN OPEN COURT, ON NOVEMBER 19, 1957

SARAH WILLIAMS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

Examination by Mr. Brantley.

Q. What is your name?

A. Sarah Williams.

Q. Sarah, do you know Edrene Ellis?

A. Yes sir.

Q. Where does she live?

A. Mobile, Alabama.

Q. Viola Cooper?

A. Mobile.

Q. Dariman Cooper?

A. I don't know where he lives.

Q. Did he live in Mobile at the time this complaint was filed?

A. No sir.

Q. Samuel Horace?

A. Yes sir.

Q. Levena Knight?

A. Yes sir.

Q. Where does Levena Knight live?

A. Stockton.

Q. Where does Samuel Horace Live?

A. New York.

Q. And you live in Stockton?

A. Yes sir.

Q. Does Iola Williams live in Stockton?

A. Yes sir.

Q. Automesa Ramsey?

A. New York.

Q. Collins Horace?

A. Out in Mexico.

Q. Simon Horace?

A. Mexico.

Q. Lee Ethel Gilcrease?

A. Prichard.

Q. Deloras Williams?

A. Stockton.

Q. Hosey Horace?

A. New York.

Q. Are all of these people over 21 years of age?

A. Yes sir.

Q. Who was your father?

A. Savage Horace.

Q. Who was his father?

A. Collins Horace.

Q. How many children did Collins Horace have?

A. Two.

Q. What was their names?

A. Savage Horace and Rosa Horace.

Q. Are these the children of Rosa Horace? Edrena Ellis, Viola Cooper, Dariman Cooper and Leander Cooper?

A. Yes sir.

Q. Is Leander Cooper living or dead?

A. Dead.

Q. Did she have any children?

A. No.

Q. Are these the children of Savage Horace:-- Samuel Horace, Sarah Williams, Levena Knight, Iola Williams, Automese Ramsey, Collins Horace, Simon Horace, Lee Ethel Gilcrease, Alberta Williams and Hosey Horace?

A. Yes sir.

Q. Is Alberta Williams dead?

A. Yes sir.

Q. Did she have any children?

A. One.

Q. What is her name?

A. Deloras Williams.

Q. Has she married since the suit was filed?

A. She is Deloras Williams.

Q. Now do you and the people that we have named here, own jointly some land around Stockton?

A. Yes sir.

Q. Is that the land of your grand father?

A. Yes sir.

Q. Is that land described as beginning at the northeast corner of the southeast quarter of the northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence south 1130 feet, thence West 660 feet, thence north 1130 feet, thence east 660 feet to beginning, in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

Q. Now were other people claiming this land at the time this suit was filed?

A. No sir.

Q. Then why did you file this law suit?

A. Oh, because Simon Field was claiming it.

Q. Was he claiming under some of your half first cousins?

A. The way he claimed it, he claimed he bought it in.

Q. Who was the wife of Collins Horace?

A. Leah Horace.

Q. Did she have any children other than Rosa Horace and Savage Horace?

A. Yes sir.

Q. Were they the children of Collins Horace?

A. No sir.

Q. How many of them were there?

A. Four, I think.

Q. Other than your father and your aunt Rosa?

A. Yes sir.

Q. How long was it after Collins Horace died before the first one of these other children were born?

A. My grandmother said that my father was around two years old when my grandfather died.

Q. You say Collins was two years old when your grandfather died or was drowned?

A. Yes sir.

Q. Do you know how long it was after your grand father died before the first one of these other children were born?

A. No I don't exactly.

Q. Let me ask you this: Are the people you are suing in this suit Ezelle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith and Eula Nye, are they the children or descendants of your grandmother?--The second set of children?

A. Yes sir.

Q. They are the people you're having this law suit with?

A. Yes sir.

I hereby certify that the foregoing, consisting of pages 1 to 5 both inclusive, correctly sets forth a true and correct transcript of the testimony as taken by me in open court in the above styled cause.

This 19th day of November, 1957.

Laurel Dusenbury  
Official Court Reporter

SAMUEL HORACE, ET AL.,	I	
Complainants,	I	
vs.	I	IN THE CIRCUIT COURT OF
	I	BALDWIN COUNTY, ALABAMA
EZELLE ANDERSON, ET AL.,	I	
Respondents.	I	IN EQUITY NO. _____
	I	

Come now the Respondents, Ezelle Anderson and Lorenza Anderson, by their solicitors, and demur to the Bill of Complaint heretofore filed in this cause and assign the following separate and several grounds in support thereof:

1. There is no equity in the Bill.
2. That the allegations of the Bill are merely conclusions of the Pleader.
3. That insufficient facts are alleged on which to grant the relief prayed for in the Bill of Complaint.
4. For aught that appears from the Bill of Complaint, the Complainants have no interest in the property described in Paragraph 3. thereof.
5. For aught that appears from the Bill of Complaint Collie Horace was not the owner of the property described therein on the date of his death.

Respectfully submitted,

CHASON & STONE

By: Melona G. Stone

SAMUEL HORACE, ET AL,  
COMPLAINANTS

VS

EZELLE ANDERSON, ET AL,  
RESPONDENTS

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IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
IN EQUITY  
CASE NO. 3329

Comes now the Complainants in the above styled cause and strikes as parties Respondents, Arthur Anderson, Ida Mae Smith and Eula Nye.

Winters and Brantley

BY:

*Allen M Brantley*  
Solicitors for the Complainants

SAMUEL HORACE, ET AL,  
COMPLAINANTS

VS

EZELLA ANDERSON, ET AL,  
RESPONDENTS

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

Comes now the Complainants in the above styled cause and amends their Bill by amending Section 5 thereof to read as follows:

5.

That the Complainants obtained their title to the aforesaid land by descent and distribution from Collins Horace, who was their grandfather and great grandfather; that Collins Horace was the fee simple owner of the lands described in Section 3 of this Complaint at the time of his death.

Wilters & Brantley

BY:

*John M Brantley*  
Attorneys for Complainants

OSI 100-580

3329

3329

TO: SAC, NEW YORK  
FROM: SAC, PHOENIX  
SUBJECT: [Illegible]

[Faded typed text, mostly illegible]

FILED

NOV 4 1954

ALICE J. DUCK, Register

[Handwritten signature]

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon EZZELIE ANDERSON, CALVIN ANDERSON, LORENZA ANDERSON, ARTHUR ANDERSON, IDA MAE SMITH, EULA NYE, to appear, plead, answer or demur, within thirty days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by Samuel Horace, et al, as Complainants and against Ezelle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith, Eula Nye, as Respondents.

WITNESS my hand this 14<sup>th</sup> day of Aug, 1954.

Adese J. Leucka  
Register

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SAMUEL HORACE, ET AL,	0	IN THE CIRCUIT COURT OF
COMPLAINANTS	0	BALDWIN COUNTY, ALABAMA,
VS	0	IN EQUITY
EZZELIE ANDERSON, ET AL,	0	CASE NO. _____
RESPONDENTS	0	

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

The Complainant respectfully represents and show unto your Honor as follows:

1.

That the Complainants are each over the age of twenty-one years and reside as follows: Edrena Ellis, Mobile, Alabama; Viola Cooper, Mobile, Alabama; Dariman Cooper, Mobile, Alabama; Samuel Horace, Stockton, Alabama; Sarah Williams, Stockton, Alabama; Levena Knight, Stockton, Alabama; Iola Williams, Stockton, Alabama; Automase Ramsey, Stockton, Alabama; Collie Horace, Stockton, Alabama; Simon Horace, Stockton, Alabama; Lee Ethel Gilcrease, Mobile, Alabama, Deloras Williams, Stockton, Alabama, Hosey Horace, Stockton, Alabama.

2.

That the Respondents are over the age of twenty-one years and reside as follows: Ezelle Anderson, Stockton, Alabama; Calvin Anderson, Stockton, Alabama, Lorenza Anderson, Stockton, Alabama; Arthur Anderson, Stockton, Alabama; Ida Mae Smith, Mobile, Alabama; Eula Nye, Mobile, Alabama.

3.

That the Complainants are the sole owners of the following described land, to-wit:

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning, in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

4.

That the Respondents are claiming title to the lands described in Section Three of this complaint, as tenants in common with the Complainants.

5.

That the Complainants obtained their title to the aforesaid land by descent and distribution from Collin Horace who was their grandfather and great grandfather.

6.

That Collin Horace died leaving two children only: Rosey Horace and Savage Horace.

7.

That Rosey Horace died and left surviving her the following named children: Edrena Ellis, Viola Cooper, Bariman Cooper, Leander Cooper. That Leander Cooper is now dead and died without issue.

8.

That Savage Horace is now dead and left surviving him the following named children: Samuel Horace, Sarah Williams, Levena Knight, Iola Williams, Automese Ramsey, Collie Horace, Simon Horace, Lee Ethel Gilcrease, Alberta Williams and Hooey Horace. That Alberta Williams is now dead and left surviving her one child, Deloras Williams.

9.

That the Respondents now claim to be tenants in common with the Complainants asserting that Eula Horace, the Respondents' mother and grandmother, is a child of Collins Horace, where in truth and fact she is not.

10.

That there is subsisting an actual justiciable controversy between the Complainants and the Respondents on which substantial property rights are dependent.

WHEREFORE, the premises considered, your Complainant prays that your Honor will by proper process make the said Eselle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith, Eula Nye, party respondents to this bill of complaint requiring them, and each of them, to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainants further pray that upon a final hearing hereof, Your Honor will render a declaratory judgment and decree stating:

a. Whether or not the Respondents named herein are legal heirs of Collins Horace, deceased, and if so what are their property rights in and to the land described in Section Three of the Bill of Complaint.

b. Whether or not the Complainants are the sole legal heirs of Collins Horace, deceased, and if so what are their property rights in and to the land, the subject matter of this suit, to-wit:

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

Complainants pray for such other further or different relief as may be just and proper.

Walters & Brantley

BY: James M. Brantley  
Solicitor for the Complainants

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C  
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FILED  
J. MACK, Register



STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon EZELLE ANDERSON, CALVIN ANDERSON, LORRENZA ANDERSON, ARTHUR ANDERSON, IDA MAE SMITH, EULA NYE, to appear, plead, answer or demur, within thirty days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by Samuel Horace, et al, as Complainants and against Ezelle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith, Eula Nye, as Respondents.

WITNESS my hand this 14<sup>th</sup> day of Aug., 1954.

Arthur J. Neuch  
Register

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SAMUEL HORACE, ET AL,	Ø	IN THE CIRCUIT COURT OF
COMPLAINANTS	Ø	BALDWIN COUNTY, ALABAMA,
VS	Ø	IN EQUITY
EZELLE ANDERSON, ET AL,	Ø	CASE NO. _____
RESPONDENTS	Ø	

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

The Complainant respectfully represents and show unto your Honor as follows:

1.

That the Complainants are each over the age of twenty-one years and reside as follows: Edrena Ellis, Mobile, Alabama; Viola Cooper, Mobile, Alabama; Dariman Cooper, Mobile, Alabama; Samuel Horace, Stockton, Alabama; Sarah Williams, Stockton, Alabama; Lvena Knight, Stockton, Alabama; Iola Williams, Stockton, Alabama; Automese Ramsey, Stockton, Alabama; Collie Horace, Stockton, Alabama; Simon Horace, Stockton, Alabama; Lee Ethel Gilcrease, Mobile, Alabama, Deloras Williams, Stockton, Alabama, Hosey Horace, Stockton, Alabama.

2.

That the Respondents are over the age of twenty-one years and reside as follows: Ezelle Anderson, Stockton, Alabama; Calvin Anderson, Stockton, Alabama, Lorenza Anderson, Stockton, Alabama; Arthur Anderson, Stockton, Alabama; Ida Mae Smith, Mobile, Alabama; Eula Nye, Mobile, Alabama.

3.

That the Complainants are the sole owners of the following described land, to-wit:

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4.

That the Respondents are claiming title to the lands described in Section Three of this complaint, as tenants in common with the Complainants.

5.

That the Complainants obtained their title to the aforesaid land by descent and distribution from Collin Horace who was their grandfather and great grandfather.

6.

That Collin Horace died leaving two children only: Rosey Horace and Savage Horace.

7.

That Rosey Horace died and left surviving her the following named children: Edrena Ellis, Viola Cooper, Dariman Cooper, Leander Cooper. That Leander Cooper is now dead and died without issue.

8.

That Savage Horace is now dead and left surviving him the following named children: Samuel Horace, Sarah Williams, Lavena Knight, Iola Williams, Automene Ramsey, Collie Horace, Simon Horace, Lee Ethel Gilcrease, Alberta Williams and Rosey Horace. That Alberta Williams is now dead and left surviving her one child, Deloras Williams.

9.

That the Respondents now claim to be tenants in common with the Complainants asserting that Kula Horace, the Respondents' mother and grandmother, is a child of Collins Horace, where in truth and fact she is not.

10.

That there is subsisting an actual justiciable controversy between the Complainants and the Respondents on which substantial property rights are dependent.

WHEREFORE, the premises considered, your Complainant prays that your Honor will by proper process make the said Eselle Anderson, Calvin Anderson, Lorenza Anderson, Arthur Anderson, Ida Mae Smith, Bula Nye, party respondents to this bill of complaint requiring them, and each of them, to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainants further pray that upon a final hearing hereof, Your Honor will render a declaratory judgment and decree stating:

a. Whether or not the Respondents named herein are legal heirs of Collins Horace, deceased, and if so what are their property rights in and to the land described in Section Three of the Bill of Complaint.

b. Whether or not the Complainants are the sole legal heirs of Collins Horace, deceased, and if so what are their property rights in and to the land, the subject matter of this suit, to-wit:

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

Complainants pray for such other further or different relief as may be just and proper.

Wilters & Brantley

BY:

James M. Brantley  
Solicitor for the Complainants

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a

*[Handwritten signature]*

Referred to the  
Court for  
final hearing  
on the  
15th day of  
April 1934

FILED  
APR 15 1934

OFFICE OF THE  
CLERK OF THE  
COURT

3329

Eula Nye

Returned 27 day of Aug 1954

Not found in my county after diligent search and inquiry.

By Taylor Wilkins, Sheriff  
Deputy Sheriff

or claim to the same within the time and under the penalties prescribed by  
to this bill of complaint regarding them and each of them to plead answer  
James Anderson, Arthur Anderson, Ida Mae Smith, Julia Mae, Della Anderson  
Homer and J. A. Baker, process make the said Eula Nye, Anderson, Calvin Anderson,  
WHEREAS the premises contained in said Complaint make that your

Just and proper.

Complaints may for such other further or different relief as may be

Wife & husband

Edward M. Wilkins

FILED  
AUG 24 1954

ALICE J. DICK, Register

STATE OF ALABAMA  
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon EZZELIE ANDERSON, CALVIN ANDERSON, LORREZA ANDERSON, ARTHUR ANDERSON, IDA MAE SMITH, EULA NYE, to appear, plead, answer or demur, within thirty days from the service hereof, to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by Samuel Horace, et al, as Complainants and against Ezelle Anderson, Calvin Anderson, Lorensa Anderson, Arthur Anderson, Ida Mae Smith, Eula Nye, as Respondents.

WITNESS my hand this 14 day of Aug, 1954.

Arthur J. [Signature]  
Register

-----

SAMUEL HORACE, ET AL,	∩	IN THE CIRCUIT COURT OF
COMPLAINANTS	∩	BALDWIN COUNTY, ALABAMA,
VS	∩	IN EQUITY
EZZELIE ANDERSON, ET AL,	∩	CASE NO. _____
RESPONDENTS	∩	

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

The Complainant respectfully represents and show unto your Honor as follows:

1.

That the Complainants are each over the age of twenty-one years and reside as follows: Edrena Ellis, Mobile, Alabama; Viola Cooper, Mobile, Alabama; Hariman Cooper, Mobile, Alabama; Samuel Horace, Stockton, Alabama; Sarah Williams, Stockton, Alabama; Levana Knight, Stockton, Alabama; Iola Williams, Stockton, Alabama; Automasie Ramsey, Stockton, Alabama; Collie Horace, Stockton, Alabama; Simon Horace, Stockton, Alabama; Lee Ethel Gilcrease, Mobile, Alabama, Deloras Williams, Stockton, Alabama, Hosey Horace, Stockton, Alabama.

2.

That the Respondents are over the age of twenty-one years and reside as follows: Ezelle Anderson, Stockton, Alabama; Calvin Anderson, Stockton, Alabama, Lorensa Anderson, Stockton, Alabama; Arthur Anderson, Stockton, Alabama; Ida Mae Smith, Mobile, Alabama; Eula Nye, Mobile, Alabama.

3.

That the Complainants are the sole owners of the following described land, to-wit:

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4.

That the Respondents are claiming title to the lands described in Section Three of this complaint, as tenants in common with the Complainants.

5.

That the Complainants obtained their title to the aforesaid land by descent and distribution from Collin Horace who was their grandfather and great grandfather.

6.

That Collin Horace died leaving two children only: Hosey Horace and Savage Horace.

7.

That Hosey Horace died and left surviving her the following named children: Edrena Ellis, Viola Cooper, Harizan Cooper, Leander Cooper. That Leander Cooper is now dead and died without issue.

8.

That Savage Horace is now dead and left surviving him the following named children: Samuel Horace, Sarah Williams, Levona Knight, Iola Williams, Antoinette Ramsey, Gellie Horace, Simon Horace, Lee Ethel Gilcrease, Alberta Williams and Hosey Horace. That Alberta Williams is now dead and left surviving her one child, Deloras Williams.

9.

That the Respondents now claim to be tenants in common with the Complainants asserting that Eula Horace, the Respondents' mother and grandmother, is a child of Collins Horace, where in truth and fact she is not.

10.

That there is subsisting an actual justiciable controversy between the Complainants and the Respondents on which substantial property rights are dependent.

WHEREFORE, the premises considered, your Complainant prays that your Honor will by proper process make the said Erella Anderson, Calvin Anderson, Lorena Anderson, Arthur Anderson, Ida Mae Smith, Lula Eys, party respondents to this bill of complaint requiring them, and each of them, to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainants further pray that upon a final hearing hereof, Your Honor will render a declaratory judgment and decree stating:

1  
✓  
a. Whether or not the Respondents named herein are legal heirs of Collins Wrape, deceased, and if so what are their property rights in and to the land described in Section Three of the Bill of Complaint.

W  
W  
C  
C  
b. Whether or not the Complainants are the sole legal heirs of Collins Wrape, deceased, and if so what are their property rights in and to the land, the subject matter of this suit, to-wit:

Beginning at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 22, Township 1 North, Range 2 East, run West 900 feet for a beginning point, thence South 1130 feet, thence West 660 feet, thence North 1130 feet, thence East 660 feet to beginning in Section 22, Township 1 North, Range 2 East, Baldwin County, Alabama.

Complainants pray for such other further or different relief as may be just and proper.

Hilters & Brantley

BY:

Albert M Brantley  
Solicitor for the Complainants



THE STATE OF ALABAMA, }  
Baldwin County } No. 3329 Circuit Court, In Equity.

Samuel Horace, et al, Complainant

Vs.

Ezelle Anderson, et al, Defendant

Motion is hereby made for a Decree Pro Confesso against Calvin Anderson

Defendant

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant ...; and that said summons was duly served according to law, and that said Defendant has failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This 17 day of Dec 19 57

*William B. ...*  
Solicitor.

BOOK 023 PAGE 109

BOOK 023 PAGE 109

No. ----- Page -----

THE STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, In Equity

Samuel Horace et al,

Vs.

Ezelle Anderson, et al

Motion for Decree Pro Confesso on  
Personal Service

Filed 12 - 18 1927

*W. J. ...*  
Register.

Recorded in ----- Record

Vol. ----- Page -----

in the above stated cause on the ground that more than thirty days have elapsed since service  
has failed to demand plead to or answer the Bill of Complaint in this cause to the date  
given said Defendant ... and that said defendant was duly served according to law and that said

The 17 day of Dec 1927  
*W. J. ...*