

RUFFLES COMPANY, INC.
A Corporation,

PLAINTIFF

-VS-

W. T. LOWERY, JAMES
AINSWORTH MILLER AND
DOROTHEA O. MILLER,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

3600

O R I G I N A L B I L L

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT:

Comes the Ruffles Company, Inc., a Corporation, and files this, their bill of complaint, against W. T. LOWERY, JAMES AINSWORTH MILLER and DOROTHEA O. MILLER, and shows:

FIRST: That plaintiff is an Alabama corporation, located in Baldwin County, Alabama, and the defendants, W. T. LOWERY, JAMES AINSWORTH MILLER and DOROTHEA O. MILLER, are bona fide residents of Baldwin County, Alabama, over the age of twenty-one years.

SECOND: That the said JAMES AINSWORTH MILLER and DOROTHEA O. MILLER are the owners of the following described property situated in Baldwin County, Alabama, to-wit:

Buildings and improvements situated on and the following described land: That piece, parcel or lot of land being and lying in the Village of Montrose in Baldwin County, Alabama, and more particularly described as commencing at a point marked by an iron pin at the Northwest corner of Adams and Second Street, thence Westwardly along the North line of Adams Street a distance of 200 feet for the place of beginning; thence continuing along the North line of Adams Street Westwardly a distance of 100 feet to a point, thence Northwardly and at right angles to Adams Street a distance of 208 feet to a point; thence Eastwardly and parallel to Adams Street a distance of 100 feet to a point, thence Southwardly and parallel to Second Street a distance of 208 feet, more or less, to the place of beginning; said parcel being a fractional part of Lot No. 1 of Square 5, according to the plat of Montrose by Gavin B. Vuille in 1847 and recorded in Book E, page 388, of the Probate Records of Baldwin County, Alabama.

THIRD: That W. T. LOWERY had a contract with JAMES AINSWORTH MILLER and DOROTHEA O. MILLER for the building of a dwelling on said land.

FOURTH: That the complainant, the RUFFLES COMPANY, INC., furnished materials and labor to the said W. T. LOWERY, at his request, for the building of said improvements on the land above mentioned, on about the 29th day of May, 1955, and that the just and proper charges for said material and labor was ONE THOUSAND THREE HUNDRED TEN DOLLARS (\$1,310.00)

FIFTH: That the said W. T. LOWERY has not paid the plaintiff for said materials and labor, and that said money has been due from the 29th day of May, 1955.

SIXTH: That on, to-wit, the 28th day of July, 1955, the said RUFFLES COMPANY, INC., filed a statement in writing, verified by oath, containing the amount of the demand, and a description of the property for which the materials were furnished and names of the owners of the land and names of parties ordering said labor and materials, by filing same in the Probate Court of Baldwin County, Alabama, which said statement is recorded in Execution and Lien Book 5, pages 153-4 of the Probate Records of Baldwin County, Alabama, as required by law.

SEVENTH: That on, to-wit, the 28th day of July, 1955, the plaintiff gave notice in writing to the owners of said land, namely, JAMES AINSWORTH MILLER and DOROTHEA O. MILLER, that he claimed a lien on said buildings and improvements and set forth in the sum of ONE THOUSAND THREE HUNDRED AND TEN DOLLARS (\$1,310.00), and for what and from whom it was owing, as required by law.

EIGHTH: That at said time JAMES AINSWORTH MILLER and DOROTHEA O. MILLER had not paid said contractor under said contract, although same is due.

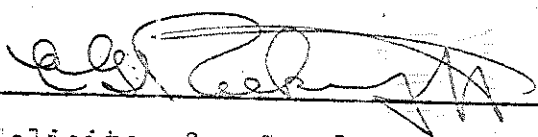
WHEREFORE, Complainant prays that due notice be given to defendants requiring them to plead, answer or demur, as required by law, and the case set down for final hearing.

And, complainant further prays that on a final hearing of said cause, the Court will find, first, that the said W. T. LOWERY is indebted to the complainant, as alleged, for materials furnished in the improvement of said land, in the sum of ONE THOUSAND THREE HUNDRED AND TEN DOLLARS (\$1,310.00), and the Court find that the said W. T. LOWERY has a contract with the said JAMES AINSWORTH MILLER and DOROTHEA O. MILLER for building said improvements on said land, and the Court determine how much was due to the said W. T. LOWERY, under and by virtue of said contract, on the 28th day of July, 1955, the date of said notice and that the complainant has a lien as to the amount of said balance due the said W. T. LOWERY, the contractor, by the said JAMES AINSWORTH MILLER AND DOROTHEA O. MILLER, or either of them, under said contract, at the time

JAMES AINSWORTH MILLER and DOROTHEA O. MILLER received the notice of the complainant's claim of said lien upon said property, and that the Court will order, adjudge and decree that the said W. T. LOWERY is justly indebted to the complainant in the sum of ONE THOUSAND THREE HUNDRED AND TEN DOLLARS (\$1,310.00) with interest from the 29th day of May, 1955 and that said sum of money is a lien on said property of JAMES AINSWORTH MILLER and DOROTHEA O. MILLER and that said property be ordered sold to satisfy said lien and Complainant prays for such other further or different relief as to equity may seem meet.

RICKARBY AND RICKARBY

BY


Solicitor for Complainant

The State of Alabama, BALDWIN County

IN CIRCUIT COURT, IN EQUITY

To any Sheriff of the State of Alabama—Greeting:

You are hereby commanded to summon W. T. LOWERY, JAMES AINSWORTH MILLER

AND DOROTHEA C. MILLER,

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

RUFFLES COMPANY, INC. A Corporation,

against

W. T. LOWERY, JAMES AINSWORTH MILLER AND DOROTHEA C. MILLER

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

Witness this 29th. day of August, 19 55.

Archie A. Smith, Register.

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

Code 1923-6523-6529

No. 3600

Page

The State of Alabama

BALDWIN

COUNTY.

IN CIRCUIT COURT, IN EQUITY

RUFFLES COMPANY, INC.

A Corporation

vs.

W. T. LOWERY, JAMES AINSWORTH

MILLER AND DOROTHEA O. MILLER

SUMMONS

Returned by the Sheriff and filed in office, this

the day of , 19

, Register.

Received in office, this the 29 day of

Aug, 1955

Taylor Wilkins, Sheriff

I have executed the within by leaving a copy

thereof with

James Ainsworth Miller 9/22/55

W. T. Lowery 9/23/55

W. T. Lowery 9/24/55

Taylor 9/24/55

Sheriff claims 216 miles at

Ten Cents per mile Total \$ 21.60

TAYLOR WILKINS, Sheriff

BY Charles Childers

DEPUTY SHERIFF

defendant named herein, on this the 24

day of Sept, 1955

Taylor Wilkins, Sheriff

By Charles Childers, Deputy

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

October 27, 1955


Mrs. Alice J. Duck, Register
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is Answer and Cross Bill in the case of Ruffles Company, Inc., -vs- Lowrey and Miller. I hereby certify that I am mailing one (1) copy to Elliott G. Rickarby, Jr., Attorney for Ruffles Company, Inc., which will act as service on Ruffles, however, since Lowrey is now made a party respondent in a suit by Miller as well as in the original suit, service of this complaint is necessary on him.

You are therefore requested to attach a Summons to the original and one copy and have this copy served on Lowrey by the Sheriff, and a return made thereon, showing execution.

Yours very truly,



C. G. Chason

CGC:fm

encls. 2

cc: Mr. Elliott Rickarby, Jr.
Rickarby & Rickarby, Attorneys
Fairhope, Alabama

SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 3600

Oct. TERM, 1955

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon W.T. LOWERY, James Ainsworth Miller and

DOROTHEA O. MILLER

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

W.T. LOWERY, JAMES AINSWORTH MILLER AND DOROTHEA O. MILLER

Defendant.

by

RUFFLES COMPANY, INC. a corporation

Plaintiff.

Witness my hand this 28th. day of Oct. 1955.

Alice J. Shuck, Clerk

No. 3600 Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

RUFFLES COMPANY, INC.

a corporation

Plaintiffs

vs.

W.T. LOWERY, JAMES AINSWORTH MILLER

and DOROTHEA MILLER

Defendants

SUMMONS and COMPLAINT

Filed OCT. 28, 19 55

ALICE J. DUCK, Clerk

RECIL G. CHASON

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

10 29, 19 55

Myron A. Sullivan, Sheriff

I have executed this summons

this , 19
by leaving a copy with

Sheriff

Deputy Sheriff

LAW OFFICES

RICKARBY & RICKARBY
FAIRHOPE, ALABAMA

ELLIOTT G. RICKARBY

E. G. RICKARBY, JR.

November 1, 1955

Mrs. Alice Duck
Clerk of the Circuit Court
Bay Minette, Alabama

Dear Mrs. Duck:

Inre: Ruffles Company
vs.
W. T. Lowery, et al
Our File: 3409
Case No. 3600

Equity

With this we are handing you Motion for Decree Pro Confesso in the above styled cause. There has been an answer filed by the Millers. We want to take a Decree Pro Confesso against Lowery.

Please enter it up for me and let me know.

Yours very truly,

E. G. Rickarby, Jr.

EGR/fm
11-8-55

cc: Mr. Cecil Chason
Attorney
Foley

HUFFLES COMPANY, INC.
A Corporation

COMPLAINANT

VS

W. T. LOWERY,
JAMES AINSWORTH MILLER,
and DOROTHEA O. MILLER,

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

MOTION FOR DECREE PRO CONFESSO

Comes the Complainant in the above styled cause and shows to the Court that on the 24th day of September, 1955, the Defendant, W. T. LOWERY, was served with process, and has to this day failed to appear and demur, plead to, or otherwise answer the allegations of the bill of complaint, as required by law.

Complainant now moves the Register of this Court to enter up a Decree Pro Confesso in the cause against said respondent, W. T. LOWERY, this the 31st day of October, 1955.

RICKARBY AND RICKARBY

BY

Solicitor for Complainant

THE STATE OF ALABAMA
COUNTY OF [illegible]

IN THE CIRCUIT COURT OF
SALINE COUNTY, ALABAMA

[illegible]

vs.

[illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

NOTICE OF DEEDS FOR CONFESSION

James the defendant in the above styled cause and others to
the Court that on the fifth day of September, 1955, the defendant,
[illegible], was served with process, and has to this day failed to appear
and answer, filed to, or otherwise answer the allegations of the
complaint now moves the Register of this Court for
a Deed for Confession in the cause against said respondent,
[illegible], this first day of October, 1955.

copy

FILED
NOV 2 1955
ALICE L. DUCK, Clerk

RECORDED AND INDEXED

Register for Confession

RUFFLES COMPANY, INC.
A Corporation,

COMPLAINANT

-VS-

W. T. LOWERY, JAMES
AINSWORTH MILLER AND
DOROTHEA O. MILLER

RESPONDENTS

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

Come the Respondents, James Ainsworth Miller and Dorothea O. Miller by their Solicitor and file this their Answer to the Original Bill as a Cross Bill against the Complainant, Ruffles Company, Inc, a Corporation, and as an Original Bill against W. T. Lowery, one of the Respondents, and show unto this Honorable Court the following:

1. Respondents James Ainsworth Miller and Dorothea O. Miller admit the allegation of the first paragraph of the Original Bill of Complaint.

2. Respondents James Ainsworth Miller and Dorothea O. Miller admit the allegations of the second paragraph of the Original Bill of Complaint.

3. Respondents James Ainsworth Miller and Dorothea O. Miller admit the allegations of the third paragraph of the Original Bill of Complaint and hereby set out and exhibit a copy of the said Contract and Agreement, which is attached hereto, made a part hereof, and marked "Cross Complainants' Exhibit A".

4. That the Respondents James Ainsworth Miller and Dorothea O. Miller neither admit or deny the allegations of the fourth paragraph of the Original Bill of Complaint wherein it is set out that the Complainant furnished materials and labor to the Respondent W. T. Lowery at a just and proper charge of One Thousand Three Hundred Ten Dollars (\$1,310.00), but demand strict proof thereof.

5. That Respondents James Ainsworth Miller and Dorothea O. Miller neither admit or deny the allegations of the fifth paragraph of the Bill of Complaint, having no knowledge thereof, but demand strict proof.

6. Respondents James Ainsworth Miller and Dorothea O. Miller neither admit or deny the allegations of paragraph six of the

Original Bill of Complaint, having no knowledge thereof, but demand strict proof.

7. Respondents James Ainsworth Miller and Dorothea O. Miller admit receiving a letter dated July 28, 1955, but which was not delivered on that date, setting out that Ruffles Company, Inc. claimed a lien for materials furnished to W. T. Lowery for buildings and improvements on the lands of the said James Ainsworth Miller and Dorothea O. Miller.

8. Respondents James Ainsworth Miller and Dorothea O. Miller admit that there is still unpaid to W. T. Lowery, as contractor, a portion of the contract price.

Respondents James Ainsworth Miller and Dorothea O. Miller having answered the Bill of Complaint of Ruffles Company, Inc., a Corporation, and pray that this Answer may be taken as Cross Complaint against said Ruffles Company, and as an Original Bill against the said W. T. Lowery, a Respondent to said cause, Cross Complainants James Ainsworth Miller and Dorothea O. Miller show unto this Honorable Court the following:

9. That they each are over the age of twenty-one years and resident citizens of Baldwin County, Alabama; that Respondent W. T. Lowery is over the age of twenty-one years and a resident citizen of Baldwin County, Alabama, and that that as they have admitted in their answer, Ruffles Company, Inc., a Corporation, is an Alabama corporation domiciled in Fairhope, Baldwin County, Alabama.

10. That on the 20 day of January, 1955 Cross Complainants James Ainsworth Miller and Dorothea O. Miller, who are also known as James A. Miller and Dorothea Owen Miller, entered into a Contract and Agreement with W. T. Lowery as Builder for the construction of a building as set out therein, a copy of which contract is attached hereto marked, "Cross Complainants' Exhibit A", and specifically made a part hereof, which said contract provided that Cross Complainants should pay to the Respondent W. T. Lowery, the sum of Eleven Thousand Nine Hundred Dollars (\$11,900.00), upon receipt of the proceeds of a loan from the Veterans Administration, application for which had been made and approved. Cross Complain-

ants further show unto the Court that as is set out in said contract and agreement, they executed a mortgage and note to Mary C. Crosby in the principal sum of Nine Thousand Seven Hundred Dollars (\$9,700.00), which the said Mary C. Crosby was authorized to pay to the Respondent W. T. Lowery in behalf of Cross Complainants upon submission of a weekly statement showing costs of labor, materials, equipment, and fixtures furnished and delivered to the site of the building, which said sum has been paid.

11. Cross Complainants further show unto the Court that as a part of the contract and agreement with the Respondent, W. T. Lowery, which said contract is attached hereto as Cross Complainants' Exhibit A, it was agreed that in order to insure construction for the agreed price and in the manner specified, the Owners, who are Cross Complainants, or Mary C. Crosby, as their agent, had authority to declare the contract forfeited, and assume construction of the building, paying to the Respondent W. T. Lowery the proportionate amount for his work and material contributed to the total, thereupon on the 5th day of May, 1955, Cross Complainant James Ainsworth Miller gave in writing to the Respondent W. T. Lowery, notice of termination of the contract because of failure of completion, a copy of which said notice is attached hereto marked "Cross Complainants' Exhibit B", and specifically made a part hereof.

12. Cross Complainants further show unto the Court that on the 5th day of May, 1955 they obtained from Jerry Jones, a carpenter, of Foley, Alabama a bid for completion of the building of Cross Complainants, including furnishing of material and labor, for a sum not to exceed Six Hundred Dollars (\$600.00), and that they received from Tom P. Ollinger, a general contractor of Mobile, Alabama, on the 24th day of May, 1955, a bid to complete the residence of Cross Complainants of Seven Hundred Twenty-five Dollars (\$725.00), copies of which said bids are attached hereto, made a part hereof, and marked "Cross Complainants' Exhibit C and D". Cross Complainants expended a sum in excess of Six Hundred Dollars (\$600.00) for the completion of the building which was to be the residence of Cross Complainants on completion thereof, according

according to the plans and specifications.

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13. Cross Complainants further show unto the Court that the note to Mary C. Crosby in the principal amount of Nine Thousand Seven Hundred Dollars (\$9,700.00), secured by a real estate mortgage on the property described in the Original Bill of Complaint, bore interest at the rate of four per cent (4%) per annum, and was due and payable on the 28th day of June, 1955. Upon extension of said mortgage made necessary because of failure to pay, all resulting from the matters and facts herein complained of, the said Mary C. Crosby increased the interest rate to six per cent (6%) per annum

14. Cross Complainants further show unto the Court that after completion of the building, which was to be the residence of the Cross Complainants, the loan which had been approved by the Veterans Administration as set out in Cross Complainants Exhibit "A" was ready for closing, in that the check had been delivered, with which to pay the remainder due W. T. Lowery, to the Title Insurance Company of Mobile, who was to act as closing agent. However, without fault on the part of Cross Complainants, the Title Insurance Company of Mobile refused to issue Title Insurance on the property in favor of the Mortgagee as required, due to outstanding bills and accounts against the Respondent, W. T. Lowery, and on the 15th day of July, 1955, the said Title Insurance Company of Mobile returned the check to the maker thereof with a letter of transmittal, a copy of which is attached hereto marked "Cross Complainants' Exhibit E" and specifically made a part hereof.

15. Cross Complainants further show unto the Court that as a result of the Respondent, W. T. Lowery, not paying for labor and materials used in the construction of the building as he agreed to do in paragraph Numbered 4 of the contract and agreement shown as "Cross Complainants' Exhibit A", they are not now financially able to pay the remainder due to the contractor, nor the amount due to Mary C. Crosby, this being Nine Thousand Seven Hundred Dollars (\$9,700.00), with interest at the rate of four per cent (4%) per annum to June 28, 1955, and at the rate of six per cent (6%) per annum from and after that date, and that as a failure of the said W. T. Lowery to carry out the provisions of his contract and agreement as he has agreed to do, it has become necessary to expend

according to the plans and specifications.

BOOK 022 PAGE 370

13. Cross Complainants further show unto the Court that the note to Mary C. Crosby in the principal amount of Nine Thousand Seven Hundred Dollars (\$9,700.00), secured by a real estate mortgage on the property described in the Original Bill of Complaint, bore interest at the rate of four per cent (4%) per annum, and was due and payable on the 28th day of June, 1955. Upon extension of said mortgage made necessary because of failure to pay, all resulting from the matters and facts herein complained of, the said Mary C. Crosby increased the interest rate to six per cent (6%) per annum

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15. Cross Complainants further show unto the Court that as a result of the Respondent, W. T. Lowery, not paying for labor and materials used in the construction of the building as he agreed to do in paragraph Numbered 4 of the contract and agreement shown as "Cross Complainants' Exhibit A", they are not now financially able to pay the remainder due to the contractor, nor the amount due to Mary C. Crosby, this being Nine Thousand Seven Hundred Dollars (\$9,700.00), with interest at the rate of four per cent (4%) per annum to June 28, 1955, and at the rate of six per cent (6%) per annum from and after that date, and that as a failure of the said W. T. Lowery to carry out the provisions of his contract and agreement as he has agreed to do, it has become necessary to expend

other and further sums to obtain the services of a solicitor to defend a suit instituted by Ruffles Company, Inc., and to obtain a title sufficiently clear and free of liens and encumbrances that they may obtain title insurance as is required for a mortgage under a loan secured by the Veterans Administration of the U. S. Government.

16. Cross Complainants therefore pray that W. T. Lowery may be made a party Respondent to this their Bill of Complaint by the usual process of this Honorable Court, requiring him to plead, answer or demurr within the time required by law or that a Decree Pro Confesso may render against him; that Ruffles Company, Inc., a Corporation, may be served with a copy of this the Answer and Cross Complaint of the Respondents, James Ainsworth Miller and Dorothea O. Miller, in accordance with law and the rules of this Honorable Court made and provided, and that upon a final hearing thereof they may be granted the following relief:

1. That the Court will establish the amount due to the said Ruffles Company, Inc., a corporation, by the said W. T. Lowery from and by Cross Complainants, and authorize payment thereof upon, after, and from the proceeds of a loan made to Cross Complainants under the provisions of the Veterans Administration Act of the U. S. Government.

2. That the Court will recognize that there has been paid by the Cross Complainants to the Respondent, W. T. Lowery, the sum of Nine Thousand Seven Hundred Dollars (\$9,700.00) under and by virtue of the terms of the contract and agreement marked "Cross Complainants' Exhibit A"; that the Cross Complainants were required to expend the sum of Six Hundred Dollars (\$600.00) for the completion of the improvements on said property in accordance with the plans and specifications, and that there is due to the said W. T. Lowery, the sum of One Thousand Six Hundred Dollars (\$1,600.00) from which there should be deducted payment to the Ruffles Company, Inc., as shown in Prayer One hereof, and such sums as provided by the Court in granting relief in following prayers hereof.

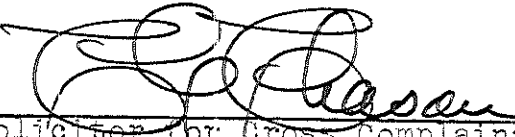
3. That C. G. Chason, the solicitor of record for Cross Complainants, be paid such sum as to Your Honor may seem proper

for his representation of Cross Complainants in this behalf.

4. That Cross Complainants be credited with interest at the rate of two percent (2%) per annum on Nine Thousand Seven Hundred Dollars (9,700.00) from December 28, 1954 until the date of rendition of the decree hereunder.

5. That the Court shall adjudge and decree that there are no mechanics, materialmens, labor, or contractor's liens or or against property described in Original Bill of Complaint arising from the construction of the building thereon by W. T. Lowery, and the filing of the Bill of Complaint by Ruffles Company, Inc.

6. Cross Complaints hereby offering to do equity, pray that there may be granted to them such other, further, different, or general relief to which they may be entitled, and as in duty bound they will ever pray.


Solicitor for Cross Complainants

STATE OF ALABAMA

BALDWIN COUNTY

THIS CONTRACT AND AGREEMENT, made and entered into, in duplicate, on this the 20 day of January, 1955, by and between JAMES A. MILLER and DOROTHEA O. MILLER, husband and wife, hereinafter referred to as "Owners", and W. T. LOWERY, hereinafter referred to as "Builder", WITNESSETH:-

That for and in consideration of the mutual covenants and agreements herein contained, and the sums to be paid as hereinafter set out, it is agreed by and between the said parties as follows:-

1. The Builder agrees to furnish such materials, fixtures, equipment and labor to accomplish the proposed construction of the building described on the plans and specifications furnished to the Builder, with a copy to be retained by the Owners, and which said plans and specifications are hereby specifically made a part hereof, in consideration of the payment to the Builder of the sum of Eleven Thousand Nine Hundred Dollars (\$11,900.00), which sum is to be paid as hereinafter provided.

2. The Owners have executed a Mortgage and Note to Mary C. Crosby in the principal sum of Nine Thousand Seven Hundred Dollars (\$9,700.00), which the said Mary C. Crosby is authorized to pay to the Builder in behalf of the Owners as follows:- The Builder shall furnish weekly a signed statement showing his labor costs and the cost of materials, equipment and fixtures, which are at the site of building, and the said Mary C. Crosby shall weekly pay the total of these sums to the Builder in behalf of the Owners. The remainder not covered by the contract to Mary C. Crosby shall be paid by the Owners to the Builder at such time as Owners have received the proceeds of a Veterans Administration Loan, application for which has been made and approved, but in any event payment must be made within six (6) months after completion of construction.

3. The Builder agrees that work will continue on said property until completion, with time being allowed, however, for delays caused by bad weather conditions or other conditions not

Cross Complainants' Exhibit A

BOOK 022 PAGE 374

C
O
P
Y
within the control of the Builder. Builder agrees that upon final completion, that the structure will pass inspection of the Veterans Administration or Federal Housing Authority.

4. The Builder agrees promptly to pay all bills for labor, materials, fixtures or equipment, and to hold Owners harmless from any claim or demand from any person, firm or corporation, for any amount due by contract or other arrangement with the Builder, and for materials, labor, etc., used on this building. The Builder agrees to insure the property against loss during construction and until delivery to the Owners.

5. In order to insure construction for the agreed price and in the manner specified, the Builder agrees that the Owners or Mary C. Crosby, as their Agent, may declare this contract forfeited and assume construction of the building, provided, however that in this event, Builder shall be paid the proportionate amount as his work and materials have contributed to the total job.

6. The Owners hereby warrant that they are lawfully possessed of the property, which is a part of Lot one (1), Block five (5) of Montrose, and agrees to assume the responsibility for designating the location of the building and assume all responsibility and liability, if error is made in the location of the boundaries.

7. It is mutually agreed that changes in the plans and specifications must be made by the Owners as the work progresses by a written outline of the proposed changes to the Builder, and by paying to the Builder any additional costs to be incurred. In the event the Owners and Builder cannot agree as to the amount to be paid, construction will be done in accordance with the original plans and specifications.

8. The Builder agrees to hold the Owners harmless from all claims or demands for personal injuries to any individual employed by or working for the Builder on the premises, but assumes no liability for injury to the Owners or guests of the Owners.

9. One copy of this contract shall be delivered to Mary C. Crosby and she shall be held harmless from any claim or demand through payment of the sums as aforesaid.

Cross Complainants' Exhibit A

BOOK 022 PAGE 375

WITNESS the hands and seals of the parties hereto on this
the day and year first above written.

(signed) JAMES A. MILLER (SEAL)

(signed) DOROTHEA C. MILLER (SEAL)
"Owners"

WITNESSES:

(signed) W. T. LOWERY (SEAL)
"Builders"

WITNESSES:

(signed) E. E. AMISON

(signed) W. R. HERRINGTON

(third and last page)

Cross Complainants' Exhibit B

DR. JAMES A. MILLER

OPTOMETRIST

West Laurel Avenue

Foley, Alabama

BOOK 022 PAGE 376

5 May 1955

Mr. W. T. Lowery
Foley, Alabama

Dear Mr. Lowery:

Inasmuch as you still have not completed my home as you have agreed to do, and inasmuch as your contract provided that forfeiture in termination may be declared, you are hereby notified that the contract of construction is hereby terminated.

Please deliver to me the plans and specifications held by you, and any and all keys or other property belonging to me or to the premises.

I assure you that upon completion and accomplishment of my Veterans loan, as set out in the contract, you will be paid all sums due you.

Yours very truly,

(signed) James A. Miller, O.D.

COPY TO
J. A. Miller, O.D.
Cecil G. Chason Esq.

Cross Complainants' Exhibit C

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5 May 1955

I agree to finish the structure for D. & Mrs. James A Miller
furnishing all materials and labor, according to plans and
specifications furnished for a sum not to exceed six hundred
(\$600.00) dollars.

(Signed) Jerry Jones

P. O. Box 202
Foley, Alabama

C
O
P
Y

TOM P. OLLINGER

GENERAL CONTRACTOR

P. O. Box 237 - Crichton Station

Mobile, Alabama

May 24, 1955

Phone GR 7-5530

Dr. and Mrs. James A. Miller
Fairhope, Alabama

Dear Dr. and Mrs. Miller:

I propose to complete the residence now under construction
belongint to you, as per plans and specifications for the
sum of Seven Hundred and Twenty Five Dollars, (\$725.00).

Very truly yours,

(Signed) Tom P. Ollinger

TOM P. OLLINGER
General Contractor

TPC?ao

Cross Complainants' Exhibit E

TITLE INSURANCE COMPANY
THE GUARANTY OF TITLE IS THE BEST PROTECTION

Title Insurance Building
164 St. Francis Street

MOBILE 2, ALABAMA

July 15, 1955

Mr. George L. Bailes, Jr.
W. B. Leedy & Company
Birmingham, Alabama

Re: James Ainsworth Miller
Your File LH-48436-Alabama

Dear Mr. Bailes:

As I indicated to you when you were in Mobile yesterday we are returning herewith your check No. Fll425 in the amount of \$11,900.00, being the mortgage loan proceeds in the above matter. The return of the check is necessitated in view of the controversy that has arisen between Dr. Miller and the contractor as the cost of certain 'extras'.

Mr. Cecil Chason, an attorney in Foley, representing Dr. Miller, proposes to file a proceeding in Baldwin County Chancery Court in order to resolve these difficulties. He hopes to have the matter brought to a conclusion within four to six weeks. However, he is most anxious that the commitment with Commonwealth Life be extended sufficiently to permit the loan to be closed after the Chancery proceeding is concluded. Would you kindly be good enough to take this up with Commonwealth Life and write either Mr. Chason or myself as to their reaction.

It was fine to see you in Mobile. Come see us more often!

Yours very truly,

TITLE INSURANCE COMPANY

Secretary

CAC:ow

Enc.

cc. Mr. Cecil Chason

BOOK 022 PAGE 379

RUFFLES COMPANY, INC,
Complainant,
VS.
W. T. LOWERY, ET AL.,
Respondent.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. IN EQUITY
NO. 3600

This cause being regularly called on this a regular day for the calling of the docket of this Court, and the parties not answering,

IT IS ORDERED by the Court that this cause be continued until May 8, 1956.

IT IS FURTHER ORDERED that this cause be, and it is hereby set down for the taking of testimony, and submission for final decree on May 8, 1956, at the Courthouse in Bay Minette, Alabama, beginning at 10 A. M.

IT IS FURTHER ORDERED that a copy of this order be mailed to the respective Solicitors of Record for the parties to this cause.

This 17th day of April, 1956.

Hubert M. Steel
Judge, 28th Judicial Circuit

FILED
APR 18 1956
ALICE L. BUCK, Register

RUFFLES COMPANY, INC.
A Corporation

COMPLAINANT

VS

W. T. LOWERY,
JAMES AINSWORTH MILLER,
and DOROTHEA O. MILLER,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

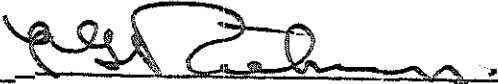
MOTION FOR DECREE PRO CONFESSO

Comes the Complainant in the above styled cause and shows to the Court that on the 24th day of September, 1955, the Defendant, W. T. LOWERY, was served with process, and has to this day failed to appear and demur, plead to, or otherwise answer the allegations of the bill of complaint, as required by law.

Complainant now moves the Register of this Court to enter up a Decree Pro Confesso in the cause against said respondent, W. T. LOWERY, this the 31st day of October, 1955.

RICKARBY AND RICKARBY

BY


Solicitor for Complainant

138-111-880

IN THE CIRCUIT COURT OF
THE STATE OF ARIZONA
IN EQUITY


THE ARIZONA CEMENT
COMPANY, INC.
a corporation
COMPLAINANT
VS
W. F. BOWEN,
JAMES ALBERTSON, JR.
and DONALD O. MILLER
DEFENDANTS

COMPLAINT FOR DAMAGES

Comes the Complainant in the above styled cause and shows to
Court that on the 29th day of September, 1955, the Defendant, W. F.
BOWEN, was served with process, and has to this day failed to answer
to the bill of complaint, or otherwise answer the allegations of the bill of
complaint, as required by law.
Complainant now moves the Registrar of this Court to enter an
order for the Defendant to answer the bill of complaint, and to show cause
why the bill of complaint should not be taken as true, this the 1st day of October, 1955.

FILED
NOV 2 1955
AILEY, DUX, CLK

THOMAS A. BEAN


Attorney for Complainant

*motion for leave
to be confessed
36.00*

CIRCUIT COURT COMPLAINT

Printed By Baldwin Times, Bay Minette, Ala.

RUFFLES COMPANY, INC.
A Corporation Complainant,
Vs.
W.T. LOWERY, et al.
Respondent.

In the Circuit Court.
In Equity No. 3600.

DECREE PRO CONFESSO ON PERSONAL SERVICE.

In this cause, it appears to the Register, that service was had on the Respondent _____

W.T. LOWERY

by the Sheriff of BALDWIN County, on the 24th. day of Sept.
1945.

And it further appears to the Register, that the said _____

W.T. LOWERY

_____, 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 E.G. RICKARBY, JR. 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 _____

W.T. LOWERY

This 2 day of Nov. 55.
1945.

George J. Blount
Register.

CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA.
IN EQUITY

RUFFLES COMPANY, INC. A Corp/

Complainant,

Vs.

W.T. LOWERY, ET AL.

Respondent.

DECREE PRO CONFESSO ON
PERSONAL SERVICE.

Issued this 2 day of Nov.,
19455.

ALICE J. DUCK

Register.

RUFFLES COMPANY, INC.,
A Corporation,

Complainant,

vs.

W. T. LOWERY,

Respondent

and

JAMES A. MILLER and DOROTHEA
O. MILLER,

Respondents and
Cross-Complainants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY NO. 3600

Comes now the Respondent, W. T. Lowery, and demurs to the Bill of Complaint heretofore filed against him by the Respondents and Cross-Complainants, James A. Miller and Dorothea O. Miller, which Bill of Complaint was incorporated in the answer of said James A. Miller and Dorothea O. Miller to the Bill of Complaint heretofore filed against them by the Complainant, Ruffles Company, Inc., A Corporation, and to each aspect of said Bill of Complaint, separately and severally, and assigns the following separate and several grounds in support thereof:

1. There is no equity in said Bill of Complaint.
2. It affirmatively appears from the allegations of said Bill of Complaint that the Respondents and Cross-Complainants have a complete and adequate remedy at law.
3. Said Bill of Complaint fails to allege any facts upon which the Cross-Complainants would be entitled to equitable relief as against your Respondent.
4. For aught that appears from the allegations of said Bill of Complaint the contract between the Respondent and the Cross-Complainants was completed and the construction of the dwelling house was had in the manner specified in said contract and at the agreed price.

5. It affirmatively appears from the said Bill of Complaint that the contract referred to therein did not require the completion of the dwelling by May 5, 1955.

6. For aught that appears from the Bill of Complaint the Respondent did not fail to complete the contract referred to therein in accordance with the plans and specifications and at the agreed price.

7. The allegations of the Bill of Complaint fail to allege in what particular the Respondent failed to carry out the provisions of his contract and agreement.

8. It affirmatively appears from the Bill of Complaint that the Cross-Complainants have not complied with the agreement which is attached to said Bill of Complaint and by reference made a part thereof.

9. It affirmatively appears from the Bill of Complaint that the Cross-Complainants have not complied with the terms of the agreement which is attached to said Bill of Complaint and by reference made a part thereof in that they have not paid to the Respondent the amounts due him under said contract and agreement.

Comes now the Respondent and demurs to that aspect of the Bill of Complaint filed by the Cross-Complainants, James A. Miller and Dororthea O. Miller, and incorporated in their answer wherein the Cross-Complainants seek to require the payment by your Respondent of the solicitor's fees of C. G. Chason and assigns the following separate and several grounds in support thereof:

1. It affirmatively appears from said Bill of Complaint that there was no agreement in writing to pay such solicitor's fees.

2. For aught that appears from said Bill of Complaint your Respondent has not agreed in writing to pay such solicitor's fees.

3. No facts are alleged which would warrant the awarding to said Cross-Complainants for the benefit of said C. G. Chason such solicitor's fees and a requirement that such fees be paid by your Respondent.

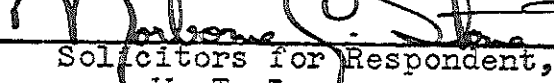
Comes now the Respondent and demurs to that aspect of the Bill of Complaint filed against him by the Cross-Complainants, James

A. Miller and Dorothea O. Miller and incorporated in their answer wherein they pray that the amount due by them to your Respondent be credited with interest at the rate of two per cent. (2%) on the sum of Nine Thousand Seven Hundred Dollars (\$9,700.00) from December 28, 1954, until the date of the rendition of the decree in this cause and assigns the following separate and several grounds in support thereof:

1. There is no equity in said aspect.
2. No facts are alleged which would warrant the rendition of such a decree.
3. It affirmatively appears from said aspect that there was no agreement in writing by your Respondent to pay the indebtedness of the Cross-Complainants in this regard.
4. It affirmatively appears from the aspect that the relief sought for is in violation of Statute of Frauds.
5. It affirmatively appears from said aspect of the Bill of Complaint that the amount sought to be credited against the indebtedness to your Respondent is a debt of the said Cross-Complainants and that there is no agreement in writing by your Respondent to pay said debt.


Respectfully submitted,

CHASON & STONE

By: 
Solicitors for Respondent,
W. T. Lowery

The Respondent, W. T. Lowery, respectfully demands a trial by jury of any issues of fact relative to the contract which is attached to the Bill of Complaint filed against him by James A. Miller and Dorothea O. Miller or any changes, additions or modifications of the plans or specifications referred to therein.

CHASON & STONE

By: 
Solicitors for Respondent,
W. T. Lowery