

JAMES V. SLOCUM, ETC.,

Complainant,

VS. J.

J. A. KLUMPP,

Respondent.

IN THE

CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA. IN EQUITY.

NO. 3614

This cause coming on to be heard upon a sounding of the docket, it was agreed between the parties hereto that said cause is improperly upon the docket and should be dismissed.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that said cause be and it is hereby dismissed.

This 8th day of May, 1956.

Hubert W. Sale

Judge of the 28th Judicial Circuit
of Alabama.

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

September 17, 1955

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

Dear Mrs. Duck:

Enclosed herewiyh is Bill of Complaint in the suit of
Slocum -vs- Klumpp.

Yours very truly,


C. G. Chason

CGC:fm

encls. 2

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

November 1, 1955

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

Dear Mrs. Duck:

Enclosed herewith is suit of Jas. V. Slocum -vs- J. A. Klumpp,
as Trustee, which is to be filed and served on Klumpp.

Yours very truly,



C. G. Chason

CGC:fm

encls. 2

JAS. V. SLOCUM, individually,
and as Administrator of the
Estate of Gaynell Slocum,
Deceased,

Complainant,

VS.

J. A. KLUMPP,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 3614.

PLEA IN ABATEMENT

Comes the respondent, J. A. KLUMPP, and for the sole
and only purpose, and for no other purpose, in abatement of
said suit in the above named cause, and pleads:

1. That said J. A. KLUMPP was sued in this cause in
his individual capacity, whereas complainant's bill of com-
plaint, on its face, shows that, if he has a claim against
the respondent at all, it is against him in a representative
capacity.

2. That he bill of complaint heretofore filed in this
cause shows that he should have been sued as Trustee, rather
than as an individual.

WHEREFORE, THE PREMISES CONSIDERED, respondent prays
that the bill of complaint heretofore filed in this cause be
dismissed and that he be permitted to go hence with his costs.

Telfair J. Mashburn, Jr.
Solicitor for Respondent.

STATE OF ALABAMA, 0
COUNTY OF BALDWIN. 0

Before me, JAMES R. OWEN, a Notary Public, in and for said
County and State, personally appeared Telfair J. Mashburn, Jr.,
who is known to me and who, being by me first duly sworn, on oath
deposes and says: "That he is informed and believes and, on such
information and belief, avers that the allegations of the fore-
going plea in abatement are true and correct." Further Depo~~ments~~
says not.

Telfair J. Mashburn, Jr.

Sworn to and subscribed before me on this 7th day of October, 1955.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 3614.

JAS. V. SLOCUM, Individually,
and as Administrator of the
Estate of Gaynell Slocum,
Deceased,

Complainant,

VS.

J. A. KLUMPP,

Respondent.

PLEA IN ABATEMENT.

FILED

OCT 10 1955

ALICE J. DICK, Register

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

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

Comes your Complainant, Jas. V. Slocum, individually, and as Administrator of the Estate of Gaynell Slocum, Deceased, and shows to this Honorable Court the following:

1. That he is a resident citizen of Baldwin County, Alabama, and is over the age of twenty-one years, and that on the 18th day of December, 1954, he was appointed by the Probate Court of Baldwin County, Alabama as administrator of the Estate of Gaynell Slocum, Deceased.

2. That the Respondent, J. A. Klumpp, is over the age of twenty-one years, and is a resident citizen of Baldwin County, Alabama.

3. That, heretofore, Mary Frances Slocum, who was also sometimes known as Mary F. Slocum, departed this life in Baldwin County, Alabama, leaving a Last Will and Testament, which was submitted to the Probate Court of Baldwin County, Alabama by the Respondent, J. A. Klumpp, who was therein named as Executor, and which said Last Will and Testament was admitted to probate in said Court, and notice was given by publication in a newspaper in Baldwin County, Alabama as required by law. Thereupon and within the time required by law, your Complainant, Jas. V. Slocum, individually, and as administrator of the Estate of Gaynell Slocum, Deceased, filed certain claims against the said estate for monies due to your Complainant, individually, and to him as administrator of the Estate of Gaynell Slocum, Deceased, which said claims were duly recorded in the Probate proceeding. Respondent, J. A. Klumpp, thereupon filed a denial of said claims. Whereupon the Complainant herein

filed a motion for the removal of the cause from the Probate Court to this Honorable Court, which said motion was never acted upon inasmuch as J. A. Klumpp, as Executor, filed an instrument declaring the estate insolvent, and as basis for this claim produced an instrument dated the 24th day of October, 1952, and of record in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 187, pages 307-309, which he alleged to be a Deed of Trust executed by the said Mary Frances Slocum to the said J. A. Klumpp as Trustee, and which said document purports to convey all of the property of the said Mary Frances Slocum to the said J. A. Klumpp as such Trustee. A copy of this instrument is attached hereto marked "Exhibit A", and is specifically made a part hereof.

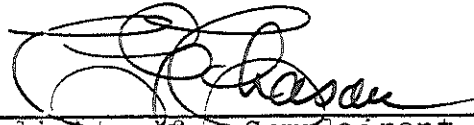
4. Complainant further shows unto the Court that the alleged Deed of Trust has as one of its provisions the following: "The said J. A. Klumpp shall take possession of, manage, control, operate and use the said property so as to produce the maximum income therefrom, to pay any and all obligations, taxes and contractual obligations I may have". Complainant therefore shows that on the 16th day of January, 1952, Mary F. Slocum executed and delivered a Promissory Note in the principal sum of Seven Hundred Ninety-eight Dollars and 49/100 (\$798.49), payable on demand at the Bank of Fairhope, Fairhope, Alabama, to Wallace Brelsford or Jas. V. Slocum, which said instrument was regularly and duly transferred and assigned by Wallace Brelsford to your Complainant, Jas. V. Slocum; that the said Mary Frances Slocum is also indebted to the said Jas. V. Slocum in the amount of Six Hundred Ninety-eight Dollars and 96/100 (\$698.96) for sums of monies advanced and paid in the calendar year of 1952 by Jas. V. Slocum and Wallace Brelsford to Mary F. Slocum, or paid at her request and for her benefit, all interests of the said Wallace Brelsford having been legally and duly assigned to your Complainant, Jas. V. Slocum; that on the 12th day of October, 1951, the said Mary F. Slocum executed a Promissory Waive Note, payable on demand, to Gaynell Slocum, which said note was in the principal sum of Three Thousand Dollars (\$3000.00), and bears interest at the rate of eight percent (8%) per annum, and was payable at the Bank of Fairhope, Fairhope,

Alabama, and which said note bears on its face the statement "for services rendered", and which said instrument is now due and payable to the said Jas. V. Slocum as administrator of the Estate of Gaynell Slocum, Deceased.

5. Complainant further shows unto the Court that the alleged Deed of Trust, a copy of which is attached hereto marked "Exhibit A" charging J. A. Klumpp, as Trustee, to keep any monies and properties coming into his possession and control as said Trustee, separate and apart from his own properties, and to deposit monies in his name as Trustee in the bank. The said instrument further provides that the remaining properties shall, after the death of the said Mary Frances Slocum, Deceased, be divided among her heirs per stirpes, without preference one over the other. Complainant further shows that he is one of the heirs at law and next of kin of the said Mary Frances Slocum Deceased, and is entitled to receive a distributive share of her said properties and estate. Complainant further shows that as an heir to said estate, he is therefore entitled to have and receive a full accounting of the monies, properties and effects of the said Mary Frances Slocum, Deceased, from the date of the execution of the alleged Deed of Trust, such accounting not being waived in said instrument.

THE PREMISES CONSIDERED your Complainant prays that J. A. Klumpp be made a party defendant to this cause by the usual process of this Honorable Court, requiring him to plead, answer, or demurr within the time required by law and the statutes in such cases made and provided, and that upon a final hearing of this cause, that your Honor may order, adjudge, and decree (1) that J. A. Klumpp, as Trustee, shall be required to file a full, true, and correct accounting under oath of all of the properties and effects of the said Mary Frances Slocum, Deceased, and enumerating any and all expenditures therefrom. (2) That J. A. Klumpp be required to pay to the Complainant Jas. V. Slocum the sum of Seven Hundred Ninety-eight and 49/100 Dollars (\$798.49) due by Promissory Note of Jan. 16, 1952, and the sum of Six Hundred Ninety-eight and 96/100 Dollars (\$698.96) due for sums advanced to, or for the benefit of Mary F. Slocum in the calendar year 1952, and as administrator of

the Estate of Gaynell Slocum, Deceased, the sum of Three Thousand Dollars (\$3,000.00), plus interest at the rate of eight percent (8%) per annum from the date that demand was made for payment by filing a claim in the Probate Court of Baldwin County, Alabama on the Promissory Waive Note executed on the 12th day of October, 1951 by Mary F. Slocum, payable to Gaynell Slocum. (3) That upon accounting and payment of the sums as aforesaid, that J. A. Klumpp be required to divide the remaining properties between and among the heirs at law and next of kin of Mary Frances Slocum, Deceased, per stirpes, without preference one over the other. (4) That your Complainant be granted such other, further, different, or general relief to which he may be entitled, and as in duty bound, he will ever pray.


Solicitor for Complainant

"Exhibit A"

STATE OF ALABAMA

BALDWIN COUNTY

WHEREAS, I, Mary Frances Slocum, because of my age desire to set up a trust for the management, control and use of my property for my sole benefit for and during the remainder of my life, and desire that after my death the remainder of any of my estate shall be divided between and among my heirs per stirpes and not per capita, and having full and complete confidence in my son-in-law, J. A. Klumpp;

NOW THEREFORE, for the purpose of setting up the said trust and in consideration of the sum of TEN (\$10.00) DOLLARS to me in hand paid, I, Mary Frances Slocum, a widow, do hereby GRANT, BARGAIN, SELL and CONVEY to J. A. Klumpp, as trustee with the powers and charged with the duties herein set out, any and all property, real, personal and mixed, of whatever kind and description, wheresoever situated held by me at this time and as well any property that shall hereafter during my lifetime be and become my property in any manner whatsoever, to have and to hold by the said J. A. Klumpp as trustee for me for and during my natural life, and to distribute the same as herein provided after my death:

1st: The said J. A. Klumpp shall take possession of, manage, control, operate and use the said property so as to produce the maximum income therefrom, to pay any and all obligations, taxes and contractual obligations I may have and to keep any moneys and properties coming into his possession and control hereunder separate and apart from his own properties, to deposit such moneys in his name in the bank as trustee for me and he shall as my needs appear from time to time use the income and as well the corpus of this trust estate for my maintenance and support solely so long as I live.

2nd: At his descretion he is given the sole, and full and complete right and power to sell and convey, borrow money, mortgage and otherwise deal with and in any or all of my said property for the purpose of executing and carrying out the provisions of this trust, such proceeds to be held, managed and used as herein provided for my maintenance and support.

3rd: any and all of the properties conveyed hereunder to the said trustee shall, after my death, be divided between and among my heirs per stirpes without preference one over the other.

4th: In the event any of the said properties can not be partitioned or divided between my heirs, then at the request of the majority of the adults of such heirs, he shall sell the property and divide the proceeds thereof.

5th: This trust conveyance shall be irrevocable, provided however, that after my death the said trustee may resign this trust by proper declaration recorded in the deed records of Baldwin County, Alabama, in which event my said properties conveyed hereunder shall vest in my heirs under the laws of the State of Alabama.

6th: In the event of the death of the said J. A. Klumpp during my lifetime then the Judge of Probate of Baldwin County shall appoint a trustee to succeed the said trustee named hereunder and to have and exercise all the powers given and granted, subject to the duties and obligations herein provided for such trustee. In the event of the death of the said trustee after my death and before the distribution of the estate conveyed hereby, then the Judge of Probate shall appoint a trustee hereunder with all such powers and duties from persons nominated to him by my adult heirs.

The said J. A. Klumpp trustee hereunder joins with me in the execution of this agreement, agreeing and binding himself to render the services provided hereunder and to carry out the provisions of this trust.

IN WITNESS WHEREOF, the said Mary Frances Slocum and J. A. Klumpp have hereunto set their hands and seal this the 24th day of October, 1952.

(Signed) Mary Frances Slocum

(Signed) J. A. Klumpp
As trustee

STATE OF ALABAMA

BALDWIN COUNTY

I, W. C. Beebe, a Notary Public, in and for said County and State, hereby certify that Mary Frances Slocum whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24day of October,
1952.

(Signed) W. C. Beebe
Notary Public, State of Alabama at
large.

STATE OF ALABAMA

BALDWIN COUNTY

I, W. C. BEEBE, a Notary Public in and for said County and State, hereby certify that J. A. Klumpp, whose name as trustee, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, in his capacity as such trustee, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of October,
1952.

(Signed) W. C. Beebe
Notary Public, State of Alabama at
large

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. x3614

Sept.

TERM, 19 55

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon J. A. KLUMPP

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

J. A. KLUMPP

Defendant.

by JAS. V. SLOCUM individually and as Administrator of the estate of

GAYNELL SLOCUM, Deceased.

Plaintiff.

Witness my hand this 19th. day of Sept. 19 55

Alice J. Renck

Clerk

Page

CIRCUIT COURT

Plaintiffs

vs.

Defendants

Summons and Complaint

Filed 9-19-55 1955

W. J. French Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

9-19

19 50

_____, Sheriff

I have executed this summons

this _____ 19_____
by leaving a copy with _____

Sheriff

Deputy Sheriff