

The State of Alabama, }
Baldwin County } Circuit Court of Baldwin County, In Equity

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon Jennie Strouse.

of Mobile County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by James Wilson. And Sadie Wilson.

against said Jennie Strouse.

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, Robert S. Duck, Register of said Circuit Court, this 29th day of October. 1935

Robert S. Duck Register

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

TO THE HONORABLE FRANCIS W. HARE, JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA, SITTING AS A COURT OF EQUITY

James Wilson and Sadie Wilson bring this bill of complaint against Jennie Strouse, and allege as follows:

1. That the complainants, James Wilson, sometime called Jim Wilson, and Sadie Wilson, who are husband and wife, are over the age of twenty-one (21), and are bona fide residents of Baldwin County, Alabama, residing near Magnolia Beach in that County, that the respondent, Jennie Strouse, is over the age of twenty-one (21), and is a bona fide resident of the City of Mobile, County of Mobile, Alabama.

2. Complainants further allege that on or about June 1, 1930, Oscar Coleman was an employee, servant and agent of the defendant, Jennie Strouse, and that he was in her employ at that time at her summer home at or near Magnolia Beach, Baldwin County, Alabama, that while in the employ of the respondent and under her direct instructions and acting within the line and scope of his agency, he was sent by the said Jennie Strouse to purchase a quart of whiskey from a bootlegger near Fairhope, Alabama, that while he was returning to the house of the said Jennie Strouse with the quart of whiskey for her, he was met by his brother, Jake Coleman, that the said Jake Coleman had a basket and Oscar Coleman placed the bottle of whiskey in the basket carried by Jake Coleman, and that ^{distance} when a short/ from the house of the said Jennie Strouse, they were arrested by an officer and charged with violating the prohibition law and taken to Fairhope, that the said Oscar Coleman was then released but the said Jake Coleman was carried to Bay Minette, Alabama, and imprisoned, and was fined a sum of One Hundred Ten and 00/100 Dollars (\$110.00), which included costs, that neither the said Oscar Coleman nor the said Jake Coleman had any funds with which to pay the said fine, and the said Jennie Strouse stated to them that she would pay the said fine for them under the said circumstances, as the said liquor was purchased for her at her expense, but in order not to involve herself in the violation of the prohibition laws of this State and be convicted therefor, she told the said Oscar Coleman that it must appear that the fine was being paid by someone

else, so at her solicitation, James Wilson and his wife, Sadie Wilson, who were the father-in-law and mother-in-law of the said Oscar Coleman, did execute, acknowledge and deliver a mortgage on their property in Baldwin County, Alabama, to the said Jennie Strouse, which said property is described as follows:

The East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the South $\frac{1}{2}$ of the North-east $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 19, Township 6 South, Range 2 East, Baldwin County, Alabama, containing 5 acres,

that the said mortgage was dated June 6, 1930, and is recorded in Mortgage Book 48, pages 366-7 of the Probate Records of Baldwin County, Alabama; that the said Jennie Strouse made her check for \$110.00, the exact amount of the fine and costs due by the said Jake Coleman, to James Wilson, and that the said check was endorsed not by the said James Wilson but by his wife, that the check was then handed to the said Oscar Coleman, who used it to pay the said fine in the County Court of Baldwin County for the said Jake Coleman; that in executing, acknowledging and delivering the said mortgage the said James Wilson and Sadie Wilson, his wife, were led to believe by the said Jennie Strouse that they were not incurring any liability on the said mortgage and the apparent payment of the said fine by the said James Wilson was merely a subterfuge to relieve the said Jennie Strouse of assuming or appearing to assume any responsibility of violating the prohibition laws of this State in purchasing or having her said agent purchase the said illegal whiskey for her; that after the execution of the said mortgage and for a long time thereafter the said Jennie Strouse treated the said mortgage as a formality and as a subterfuge, as aforesaid, but that after the running of the statute of limitations against her for the violation of the prohibition laws of this State, she began to press the said James Wilson for payment, and in order not to lose his homestead he did make some promises of payment and did make some actual payments to the said Jennie Strouse, but that any and all payments made by him and all promises to pay the said mortgage by him were without legal consideration, and that the entire transaction of placing a mortgage on the property of the said James Wilson was intended as a nullity and is a nullity, and was a fraud on the said James Wilson and his wife by the said Jennie Strouse;

that she, as mortgagee, has now advertised the said mortgage for foreclosure, and the date set for foreclosure is twelve o'clock, noon, October 31, 1935, at the front door of the Bank in Fairhope, in Fairhope, Baldwin County, Alabama, that the said mortgage is a nullity, and that the said James Wilson is not indebted to the said Jennie Strouse in any sum whatsoever, but, on the other hand, she is indebted to him for the sum of \$35.00 that he has paid to her on account of the said fictitious mortgage indebtedness, and that the said mortgage is a cloud on the title of the complainants.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, your complainants, James Wilson and Sadie Wilson, pray that Jennie Strouse be made a party respondent to this bill of complaint, and service be had on the respondent according to the law and rules and practice of this Court, and that she be required to answer this bill, and each paragraph thereof.

PRAYER FOR RELIEF

Complainants pray that Your Honorable Court will enjoin the foreclosure of this alleged mortgage, and restrain the respondent from entering into, taking control, or exercising any rights of possession over the property of the complainants described herein, and that upon the hearing of this cause this Honorable Court will decree that the said mortgage is a nullity and of no legal force and effect, and be cancelled as a cloud on the title of the said property, and that the said Jennie Strouse be required to account to and to pay over to the complainant, James Wilson, any and all sums that he has heretofore been compelled to pay to her on account of the said fictitious mortgage, and that he be allowed by this Honorable Court a reasonable solicitor's fee to be paid to his solicitor of record for prosecuting this cause and declaring the said mortgage a nullity, and for such other, further and different relief as in equity he may be entitled to.


Solicitor for Complainants

FOOTNOTE

Respondent is required to answer each and every paragraph of the foregoing bill of complaint, but not under oath, oath being hereby expressly waived.


Solicitor for Complainants

92

Wade

RECORDED
INDEXED
6-25-33

Serve on Jennie Strouse,
Circuit Court of Baldwin County
IN EQUITY

Notary
SUMMONS

James Wilson and Sadie Wilson
Wilson,

vs.

Jennie Strouse,
Wife of Alex Strouse

THE STATE OF ALABAMA,

BALDWIN COUNTY

Received in office this 29

day of Oct., 1935

J. H. Williams
SHERIFF

Executed this 2 day of

November 1935

by leaving a copy of the within Summons with

Jessie Strouse

Defendant

R. S. McNamee
Sheriff

By Ernest Summerton
Deputy Sheriff

W. L. A. Frazer,
Solicitor for Complainant

Recorded in Vol. _____ Page _____

EXHIBIT

Response is required to answer each and every paragraph of the foregoing bill of complaint, but not under oath, oath being hereby expressly waived.

Bill of Complaint

McLellan
2004 Oct 31
Robert D. Muel
es.

RECORDED
Dec 31