

ELLA IRENE CUNNINGHAM,  
Complainant,

vs.

IRA W. BARCHARD,  
Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 2278

Comes the Respondent in the above styled cause and demurs to the Bill of Complaint filed in said cause and each and every paragraph thereof separately and severally and assigns the following ground, viz:-

1. That there is no equity in the Bill.

Hybart, Chason & Stone

BY:

John H. Chason  
Solicitors for Respondent.

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA  
Baldwin County

CIRCUIT COURT, BALDWIN COUNTY

No.-----

-----TERM, 194-----

TO ANY SHERIFF OF THE STATE OF ALABAMA :

You are hereby commanded to summon

Ira W Burchard

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-----

Ira W. Burchard

, Defendant----

by

Ella Irene Cunningham

Plaintiff----

Witness my hand this

29th

day of

April

1949

Archie J. Leuch

, Clerk

No. \_\_\_\_\_ Page \_\_\_\_\_

**THE STATE of ALABAMA,**  
BALDWIN COUNTY

**CIRCUIT COURT**

\_\_\_\_\_  
Plaintiffs

vs.

\_\_\_\_\_  
Defendants

**SUMMONS and COMPLAINT**

Filed \_\_\_\_\_, 194\_\_\_\_

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Plaintiff's Attorney

\_\_\_\_\_  
Defendant's Attorney

\_\_\_\_\_  
Defendant lives at

\_\_\_\_\_  
RECEIVED IN OFFICE

\_\_\_\_\_, 194\_\_\_\_

\_\_\_\_\_  
Sheriff

I have executed this summons

this \_\_\_\_\_, 194\_\_\_\_

by leaving a copy with

\_\_\_\_\_  
Sheriff

\_\_\_\_\_  
Deputy Sheriff

ELLA IRENE CUNNINGHAM,	)	IN THE CIRCUIT COURT OF
Complainant,	)	BALDWIN COUNTY, ALABAMA,
Vs.	)	IN EQUITY
IRA W. BARCHARD,	)	NO. _____
Respondent.	)	

TO THE HONORABLE JUDGES OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALA-  
BAMA, IN EQUITY:

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Comes the complainant, Ella Irene Cunningham, and presents this her bill of complaint against the respondent, Ira W. Barchard, showing unto the court as follows:

1. That complainant is over the age of twenty-one years and resides in the town of Foley, Baldwin County, Alabama, and that respondent is over the age of twenty-one years and is a non-resident of the State of Alabama, whose address is 3243 Belle Plaine Avenue, Chicago 18, Illinois.

2. That complainant and respondent, sister and brother, as tenants in common jointly own the following described real estate, all of which is situate in the County of Baldwin, State of Alabama, and is more particularly described as follows, viz:

Begin at the point where the South line of Township 8 South intersects the West line of Section 37 of the Samuel Suarez Grant, run North 41 feet to a point, thence North 72 degrees 25 minutes East 2,277.5 feet to the point of beginning, run thence North 72 degrees 25 minutes East 924 feet to a point, thence South 25 degrees 30 minutes East 628.5 feet to a point, thence North 65 degrees 30 minutes East 504.6 feet to a point, thence South 24 degrees 30 minutes East 516 feet to a point, thence 89 degrees East 500 feet, more or less, to a point which is located on the South side of Bear Point, thence North along the meanders of Bayou St. John which is on the South side of Bear Point 50 degrees 48 minutes East 937.6 feet to a point, thence North along the meanders of said Bayou 71 degrees 30 minutes East, 920 feet to a point, thence in a Northwestwardly direction 100 feet to a live oak tree referred

to as Station One (1) in that certain Deed from Dannelly and wife to Carney & Jones, as recorded in Deed Book "M" at pages 149-51, thence North 32 degrees 30 minutes West 378 feet to a point, thence North 71 degrees West 532 feet to a point, thence West 1567 feet to a point, thence North 1 degree 24 minutes West 1650 feet to a point on the North side of Bear Point on Bay LaLaunch, thence South along the meanders of said Bayou 56 degrees 30 minutes West 556 feet to a point, thence South along the meanders of said Bayou 72 degrees 30 minutes West 442 feet to a point, thence South along the meanders of said Bayou 40 degrees West 318 feet to a point, thence South 22 degrees West 316 feet to a point, thence South 0 degrees 30 minutes West 892 feet to a point, thence South 27 degrees 45 minutes West 658.5 feet to the point of beginning.

3. That the complainant owns an undivided one-sixth interest in and to said real property, and complainant is informed and believes, and upon such information and belief avers, that respondent owns an undivided five-sixths interest in and to said real property.


4. Complainant further avers that she desires that the said real property be partitioned between the parties hereto, and complainant is informed and believes, and upon such information and belief avers, that said lands can be equitably divided by metes and bounds among the parties owning the same. Complainant further avers that in the event it be determined that the said real property can not be equitably divided between the said parties owning the same that she desires that the said property be sold for division.

5. Complainant further avers that T. Massey Bedsole, attorney at law, has been employed by complainant to prepare and present this proceeding.

PRAYER FOR PROCESS AND RELIEF

WHEREFORE, the premises considered, complainant respectfully prays that this Honorable Court will take jurisdiction of this her bill of complaint, and will make the said Ira W. Barchard party respondent hereto, and will cause process to be issued and served upon

said respondent in accordance with law and the applicable rules and practice of this Honorable Court relative to the service of process upon a non-resident respondent, commanding the same to appear and plead hereto within the time required by law. Complainant further prays that upon a hearing hereof, this court will make or render a decree, declaring the respective interests of the parties hereto in said property, and directing that the said property be partitioned by metes and bounds among the joint owners in accordance with their respective interests therein in whatever parts or parcels as the court may deem fair and equitable, to be determined in whatever manner the court may direct, and that the court will make such other, further and additional orders or decrees as necessary to vest in the owners of said property such portion of the same as may be allotted or partitioned to them upon such partition, and directing that the costs of court, the costs and expenses of such partition, together with a reasonable solicitor's fee for complainant's solicitor herein be taxed against the parties hereto in accordance with their respective interests in said property; or in the event it appears to the court that complainant is mistaken as to the relief to which she is entitled in that the above described property can not be equitably divided between the owners thereof without a sale of the same, that the court will render a decree so finding, and ordering that the said property be sold for division among the owners thereof, and directing that the proceeds of said sale, after payment of the costs of court, and the costs and expenses of such sale together with a reasonable solicitor's fee for the complainant's solicitor herein, be divided and distributed under the orders of this court among the parties to this suit, in accordance with their respective interests in said property, and awarding such other, further and different relief as in equity and good conscience the complainant is entitled herein to receive.

  
Solicitor for Complainant  
622 First National Bank Bldg.  
Mobile, Alabama

STATE OF ALABAMA )

COUNTY OF MOBILE )

Personally appeared before me, T. Massey Bedsole, solicitor of record for complainant in the above entitled cause, who being duly sworn, deposes and says that he is informed and believes that Ira W. Barchard, the respondent in the above styled cause is a non-resident of the State of Alabama, whose present office address is 3243 Belle Plaine Avenue, Chicago 18, Illinois, and that said respondent is in the belief of affiant's attorney over twenty-one years of age.

T. Massey Bedsole

Subscribed and sworn to before me

this 29 day of April, 1949.

Dorothy M. White  
Notary Public, Mobile County, Ala.