

2334

DIVORCE DECREE

STATE OF ALABAMA
BALDWIN COUNTY

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA - IN EQUITY

ROSE GHASKIN, Complainant
vs.
GLOVER GHASKIN, Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, Decree Pro Confesso on Personal Service and Testimony as noted by the Register, and upon consideration thereof, the Court is of the opinion that the Complainant is entitled to the relief prayed for in said bill.

It is therefore ordered, adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the Complainant and Respondent be, and the same are hereby, dissolved, and that the said ROSE GHASKIN is forever divorced from the said GLOVER GHASKIN for and on account of Voluntary Abandonment.

It is further ordered that the care, custody and control of the minor children of the marriage, namely; Lizzie Mae Ghaskin, Deloris Cecile Ghaskin, Belzara Ghaskin, Glover Ghaskin, Jr., Annie Laurie Ghaskin, Alma Jeans Ghaskin, Sarah Lee Ghaskin, Connie Camilla Ghaskin and Howard Ghaskin, is awarded to the said Rose Ghaskin, the Complainant and Mother.

It is further ordered that the Respondent pay over to the Complainant the sum of Forty Dollars (\$40.00) per month as alimony for the support and maintenance of herself and said minor children, said payments to begin October 1, 1950 and to be payable monthly.

It is further ordered, adjudged and decreed that all title, right and interest in and to the following described real property be, and is hereby, divested of the Respondent and said title, right and interest be vested in the Complainant as her sole real property; to have and to hold unto herself, her heirs and assigns forever, to-wit:

From the NE Corner of the Northwest Quarter of Section 26, Township 5 South, Range 2 East, run South 665 feet, thence West 332 feet for point of beginning, thence South 332 feet, thence West 400 feet, thence Northeasterly to a point 332 feet West of the point of beginning, thence East 332 feet to the point of beginning; said land being in Baldwin County, Alabama.

It is further ordered, adjudged and decreed that neither party to this suit shall again marry except to each other until sixty days after the rendition of this decree, and that if appeal is taken within sixty days, neither party shall again marry except to each other during the pendency of said appeal.

It is further ordered that the Complainant, Rose Ghaskin, be and she is hereby, permitted to again contract marriage upon the payment of the cost of this suit.

It is further ordered that Glover Ghaskin, the Respondent, pay the cost herein to be taxed, for which execution may issue.

This 8th day of September, 1950.

J. Fair H. Mashburn, Jr.
Judge, Circuit Court, in Equity

ROSE GHASKIN

vs.

GLOVER GHASKIN

THE STATE OF ALABAMA

Baldwin County

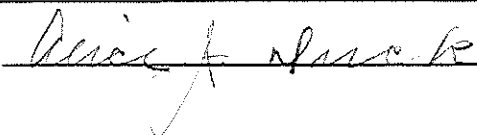
IN EQUITY

Circuit Court of Baldwin County

This cause is submitted in behalf of Complaint upon the original Bill of Complaint, _____

Decree Pro Confesso. Testimony of Rose Ghaskin and Clark Taylor

and in behalf of Defendant upon _____


Register.

RECORDED

No. 2234

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

ROSE GHASKIN

vs.

GLOVER GHASKIN

NOTE OF TESTIMONY

Filed in Open Court this 5th

day of Sept., 1945

Alvin A. Newch
Register.

Printed By The Baldwin Times

A. B. MILLER
ATTORNEY AT LAW
ROBERTSDALE, ALABAMA

September 7, 1950

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

Dear Mrs. Duck:

Enclosed is the file in the Ghaskin case. When Judge Mashburn gives you the decree in this case, send the copy for Rose Ghaskin to her care of Clarke Taylor, Fairhope, Alabama. Thanks for your cooperation in this matter. Maybe we can get things straight for Rose after all.

Sincerely,

A. B. Miller

A. B. Miller

THE STATE OF ALABAMA }
Baldwin County

Circuit Court of Baldwin County, Alabama,
(In Equity)

ROSE GHASKIN

COMPLAINANT

vs.

GLOVER GHASKIN

RESPONDENT

I, Alice J. Duck

as Register and Commissioner for Baldwin County, Alabama

have called and caused to come before me Rose Ghaskin, and Clark Taylor

witness^{es} named in the requirement for Oral Examination, on the 5th day of September
1945, at the office of Clerk of the Circuit Court, Register in Chancery
in Bay Minette, Alabama, and having first sworn said witness^{es} to speak the
truth, the whole truth, and nothing but the truth, the said Rose Ghaskin and Clark

Taylor

doth depose and say as follows:

I am Rose Ghaskin, the Complainant in this case, and I am over the age of 21 years. I am a bona fide resident of Baldwin County, having lived at Montrose, Alabama for the past fifteen years or longer. On February 26, 1933 I married Glover Ghaskin, the Respondent in this case. We lived together, off and on, as man and wife until he left me about September 1, 1948. I have nine children fathered by Glover Ghaskin during our marriage. I now have the care and custody of all these children. Their names are: Lizzie Mae Ghaskin, Deloris Cecile Ghaskin, Belzara Ghaskin, Glover Ghaskin, Jr., Annie Laurie Ghaskin, Alma Jeans Ghaskin, Sarah Lee Ghaskin, Connie Camilla Ghaskin and Howard Ghaskin. During the time of our marriage, Glover did not stay at home very much of the time nor paid very much toward the support of the children. On or about September 1, 1948, Glover left me and the children and hasn't returned to live with us nor has he voluntarily contributed to the support of the children or upkeep of the home since that date.

During the marriage with Glover Ghaskin, we bought a home in Montrose, Alabama. Since the time we bought that home, I have paid all the taxes on the home and paid for all the necessary repairs to the home. The deed to the home was made out to Glover and myself jointly.

I am a fit person to have the custody of the children. I work at general housework for several families in Fairhope, Alabama, and make a reasonable salary from that work. What I make is not enough to take care of the children and myself without some assistance from Glover.

Rose Ghaskin

I, Alice J. Duck as Register and Commissioner hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witness and read over to and signed the same in the presence of myself and _____ at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness or had proof made before me of the identity of said witness; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 5th day of Sept 1940
Alice J. Duck (L. S.)

No. _____ Page _____

**THE STATE OF ALABAMA,
BALDWIN COUNTY**

IN CIRCUIT COURT, IN EQUITY

COMPLAINANT

VS.

RESPONDENT

ORAL DEPOSITION

Filed _____, 194_____

_____, Register.

RECORDED IN

_____ Record

Vol. _____ Page _____

_____, Register

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, }
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY
No. 2234
_____ Feb. _____ TERM, 194 9

TO ANY SHERIFF OF THE STATE OF ALABAMA :

You Are Hereby Commanded to Summon GLOVER GHASKIN

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 _____

~~XXXXX~~ GLOVER GHASKIN

_____, Defendant _____

by ROSE GHASKIN

_____, Plaintiff _____

Witness my hand this 3rd day of Feb. 194 49

Rice J. Smith

_____, Clerk.

Page -----

BALDWIN COUNTY

CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS and COMPLAINT

Filed _____, 194_____

Clerk

Plaintiff's Attorney

Defendant's Attorney

Moore Printing Co.

Defendant lives at

RECEIVED IN OFFICE

-, 194-_-_-

Sheriff

I have executed this summons

this _____, 194_____

by leaving a copy with

PETITION FOR DIVORCE

Rose Ghaskin, /
Comp. /

CIRCUIT COURT OF BALDWIN COUNTY ALA.

VS

IN EQUITY

Glover Ghaskin /
Resp. /

TWENTY-EIGHTH JUDICIAL CIRCUIT

To the Hon. Judge of said Court in Equity Sitting;

Comes your Complainant in the above styled cause, Rose Ghaskin and represents unto the Hon. Court as Follows;

1. That she and the Respondent Glover Ghaskin are each over the age of twenty-one years and are bona fide residents of Baldwin County and have been for many years.
2. That the Complainant and Respondent were married to each other at Montrose in Baldwin Co. on to-wit, Feb. 26, 1933 and finally separated on to-wit, Sept. 1, 1948.
3. That nine children were born as a result of said union, their names and ages being as follows:

(a) Lizzie Mae Ghaskin	-----	14 years
(b) Deloris Cecile "	-----	12 years
(c) Belzara "	-----	10 "
(d) Glover	*****	8 "
(e) Annie Laurie	-----	6 "
(f) Alma Jeans	-----	4 "
(g) Sarah Lee	-----	3 ¹ / ₂ "
(h) Connie Camilla	-----	1 ¹ / ₂ "
(i) Howard	-----	8 months.

Said children are in the care, ^{since} ~~and~~ custody of their mother.

4. And Complainant avers that ~~before~~ ^{since} their said marriage and before their separation Resp. a number of times committed actual violence upon her person attended with danger to her life or health, or, from his conduct there was reasonable apprehension of such violence.

5. And Complainant further avers that for years Resp. has in reality abandoned her and the children and has contributed practically nothing to their support and that she tolerated his infrequent visits to the house in the hopes he would do better and further that she does not believe in divorce unless absolutely necessary which time she believes has come.

6. Comp. further avers that she and Resp. jointly own a small house and piece of ground in the Montrose area on which she has been paying taxes and in which she and her children all live said land being described as follows:

From the NE Corner of the NW ¹/₄ of Section 28, T5S, R2E, run South 663 feet, thence West 332 feet for point of beg., thence South 332 feet, thence West 400 ft., thence Northeasterly to a point 332 feet West of the point of beg., thence East 332 feet to the point of beg. said land being in Baldwin County Alabama.

PREMISES CONSIDERED Complainant prays that the said Glover Ghaskin be made a party Respondent to this her bill of Complaint and that all proper process of service be issued and directed to him requiring him to plead, answer or demur to this bill within the time allowed by law and that on a final hearing of this cause the Court will enter a decree; (a) giving her a divorce from said Resp. and complete control and custody of said children, (b) ordering said Resp. not to disturb or molest in any way your Comp. or said children

(c)granting her the right to remarry,(d)ordering the conveyance to Comp.of all the right,title and interest of said Resp.in and to the above described piece of land(e) ordering Resp.to pay monthly for the support of said children a sum which this Hon.Court deems mete and proper under the circumstances.Complainant further prays that this Hon.Court will grant such other,further and different relief to her as may seem to it proper as to which your Comp.will forever pray and be forever bound.

Robert M. Mundie
Solicitor for Complainant.

RECORDED

Equity # 2234

Petition for Divorce

Rose Ghaskin

VS

Glover Ghaskin

*Works for Albert
Craft*

Received in Sheriff's Office
this 7 day of Feb, 1949
TAYLOR WILKINS, Sheriff

Executed 4-15 1949
by serving copy of within Summons and
Complaint on

Glover Ghaskin

Taylor Wilkins Sheriff
By: Zola B. Griffin Deputy Sheriff

FILED

FEB 3 1949

ALICE J. DUCK, Register

The State of Alabama,
Baldwin County.

No. 2234... CIRCUIT COURT IN EQUITY.

Rose Ghaskin Complainant
vs.
Glover Ghaskin Defendant

In this cause it appears to the Register
that a summons requiring the Defendant Glover Ghaskin

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to appear and demur, plead to or answer the Bill of Complaint in this cause within thirty days
after the service of said Summons upon him
was served upon him by the Sheriff of Baldwin County, Alabama, on the
15 day of April 1949

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And the said Defendant having failed to demur, plead to or answer the said Bill of Complaint
to this date, it is now, therefore, on motion of the Plaintiff

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ordered and decreed that the said Bill of Complaint in this cause be and it hereby is in all things
taken as confessed against the said Glover Ghaskin

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Defendant aforesaid.

This 30th day of May 1949
Alice Leach Register.

RECORDED

No. 2234

Page

The State of Alabama,
Baldwin County.

CIRCUIT COURT, IN EQUITY

Rose Ghaskin

vs.

Glover Ghaskin

DECREE PRO CONFESSO ON
PERSONAL SERVICE

Issued 8-30 1947

W. J. [Signature]
Register.

Moore Printing Company, Bay Minette, Ala.

The State of Alabama,

Baldwin County.

{ No. 2234... CIRCUIT COURT IN EQUITY.

~~Rose Ghaskin~~

Complainant...

vs.

Glover Ghaskin

Defendant...

Motion is hereby made for a Decree Pro Confesso against Glover Ghaskin

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 28 day of May 1949.*Robert M. Manning*

Solicitor.

RECORDED

No. _____ Page _____

The State of Alabama,
Baldwin County.

CIRCUIT COURT, IN EQUITY

Rose Ghaskin

vs.

Glover Ghaskin

**MOTION FOR DECREE PRO
CONFESSO ON PERSONAL SERVICE**

Filed 5-30 1949

Alice J. Welch
Register.

Recorded in _____ Record,

Vol. _____ Page _____

Register.

2334

M. C. POWERS,
Complaint

-VS-

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, A Corporation
Respondents

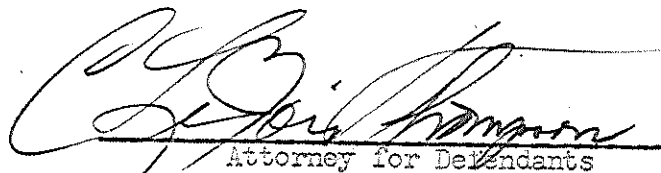
NO. 2334

IN THE CIRCUIT COURT FOR
BALDWIN COUNTY, ALABAMA.

IN EQUITY

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF SAID COURT,
IN EQUITY SITTING:

Comes C. LeNoir Thompson, attorney for the Defendants, and suggests
to the Court that one of the Defendants, Mrs. Eula A. Hill, is now de-
ceased she, having passed away during the year 1950.


Attorney for Defendants

M. C. POWERS,

Complaint

=VS=

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, A Corporation

Respondents

NO. 2334

IN THE CIRCUIT COURT FOR
BALDWIN COUNTY, ALABAMA

IN EQUITY

MADE L. DUCK, Registrar

MAR 27 1950

FILED

From the law office of
C. LeNoir Thompson
Bay Minette, Alabama

WILLIAM R. LAUTEN
ATTORNEY AT LAW
PITMAN BUILDING
FAIRHOPE, ALABAMA

March 23, 1951

Mrs. Alice J. Duck, Register,
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: M. C. Powers
Vs: Mrs. Eula A. Hill, et al.
No. 2334. in Equity.

Dear Mrs. Duck:

Please file the enclosed paper in the above case, whereby I am withdrawing a motion to dismiss the cross bill, heretofore filed by the cross-complainants.

Also find enclosed a motion to strike, a demurrer to the cross bill, as amended, and an answer to the cross bill, as amended, all incorporated in one. Kindly see that the solicitor for the respondents, Mr. C. LeNoir Thompson, receives a copy of these papers.

Thanking you, I am

Yours very truly,

William R. Lauten

L/n

Enc.

cc: Mr. C. LeNoir Thompson
Attorney at Law
Bay Minette, Alabama

Mr. A. M. Miller
Attorney at Law
Robertsdale, Alabama

WILLIAM R. LAUTEN

ATTORNEY AT LAW
PITMAN BUILDING
FAIRHOPE, ALABAMA

October 16, 1950

Mrs. Alice J. Duck, Register,
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: M. C. Powers, Complainant
Vs: Mrs. Eula A. Hill, et al.

Dear Mrs. Duck:

Please find herewith enclosed a waiver of service of the respondent, The Fairhope Single Tax Corporation, by its secretary, C. A. Gaston, of the amendment to the Bill of Complaint, as amended, wherein the respondent, Mrs. Eula A. Hill, was stricken as a party respondent. Please file this paper in the above cause.

A copy of this letter goes to Mr. C. LeNoir Thompson, Solicitor for the respondents, so that he may have notice of the filing of said paper.

With best wishes, I am

Yours very truly,

William R. Lauten

L/n

Enc.

cc: Mr. C. LeNoir Thompson
Attorney at Law
Bay Minette, Alabama

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,
Respondents

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

NO. 2334

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF SAID COURT, SITTING
IN EQUITY:

Comes the Fairhope Single Tax Corporation, a respondent in
the above entitled cause, acting by and through its secretary, ~~C. A. Gaston~~
A. Gaston, and acknowledges receipt on this 6th day of October,
1950, of a copy of the Amendment of the Bill of Complaint, as amended,
filed in this cause on said date, and waives any further service of
the same by the Sheriff or otherwise.

FAIRHOPE SINGLE TAX CORPORATION

C. A. Gaston

BY ~~C. A. Gaston~~ A. GASTON AS ITS SECRETARY

J. JEFFERSON BENNETT

Attorney at Law

Pitman Building

FAIRHOPE, ALABAMA

September 27, 1949

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

Dear Mrs. Duck,

You will find enclosed an acknowledgment of receipt of
a copy of the Amendment filed in this cause today. Will you
please file this paper in that case.

Very truly yours,


Jeff Bennett

JB:jb
Enclosure

This takes care of all parties.

J. JEFFERSON BENNETT

Attorney at Law
Pitman Building
FAIRHOPE, ALABAMA

August 12, 1949

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

Dear Mrs. Duck,

You will find enclosed a Bill of Complaint involving three respondents with a separate summons for each one. I would appreciate it very much if you would file this suit for me and issue the summons to the sheriff.

I am also enclosing a commissioners report of testimony taken in equity suit No. 2306.

I am enclosing a note to the sheriff giving the locations of the respondents involved in the Bill enclosed.

Very truly yours,

Jeff Bennett
Jeff Bennett *By: Miss Blaylock*

JB:jb
Enclosure

no 2334

M. C. Powers

vs.

Mrs. Eula A. Hill
Mrs. Oprie A. Parker
The Fairhope Single
Tax Corporation, a corp.

Suit on Contract

Filed 6-13-49

J. J. Bennett

WILLIAM R. LAUTEN

ATTORNEY AT LAW

PITMAN BUILDING

FAIRHOPE, ALABAMA

October 6, 1950

Mrs. Alice J. Duck, Register,
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: M. C. Powers
Vs: Eula A. Hill, et al.
NO. 2334

Dear Mrs. Duck:

Please find enclosed herewith my appearance as Solicitor of Record in the above styled cause, together with an amendment to the Bill of Complaint, as amended, heretofore filed by Mr. J. Jefferson Bennett, my associate in the matter.

Kindly file the paper for me, and I am sending a copy thereof to Mr. C. LeNoir Thompson, Solicitor of Record for the respondents. I am also having the respondent, Fairhope Single Tax Corporation, waive service and notice of the enclosed Amendment.

Yours very truly,

William R. Lauten

L/n

Enc.

cc: Mr. C. LeNoir Thompson
Attorney at Law
Bay Minette, Alabama

SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 2334

TERM, 1949

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Mrs. Eula A. Hill, Mrs. Ophie A. Parker, The
Fairhope Single Tax Corporation, a corporation

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 Mrs. Eula A. Hill,
Mrs. Ophie A. Parker, The Fairhope Single Tax Corporation, a corporation, Defendant....

by M. C. Powers

Plaintiff....

Witness my hand this 13 day of August 19 49.

Wm. J. Hensley

Clerk

No. 2334

Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

M. C. Powers

Plaintiffs

vs.

Mrs. Eula A. Hill, Mrs. Orphie A.
Parker, The Fairhope Single Tax
Corporation, a corporation

Defendants

SUMMONS and COMPLAINT

Filed _____, 19____

_____, Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

_____, 19____

_____, Sheriff

I have executed this summons

this _____, 19____

by leaving a copy with

Sheriff

Deputy Sheriff

Acknowledgment of Service of

AMENDMENT TO THE BILL OF COMPLAINT

M. C. POWERS,
Complainant

-vs-

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, a corporation,
Respondents.

NO. 2334

IN THE CIRCUIT COURT FOR
BALDWIN COUNTY, ALABAMA,
In Equity.

To the Honorable TELFAIR J. MASHBURN, Judge of Said Court, in Equity
Sitting:

Comes now the Fairhope Single Tax Corporation, a Respondent
in the above styled cause, acting by and through it's Secretary,
~~Carney~~ A. Gaston, and acknowledges receipt on this the 27th day of
September, 1949, of a copy of the Amendment to the Bill of Complaint
filed in this cause on said date and waives service of same.

Fairhope Single Tax Corp.
Fairhope Single Tax Corporation

C. A. Gaston
By C. A. Gaston, as it's Secretary.

EXCEPTION TO INTERROGATORIES

M. C. POWERS,
COMPLAINANT,

VS.

MRS. EULA A. HILL, MRS.
ORPHIE A. PARKER, AND
THE FAIRHOPE SINGLE TAX
CORPORATION, a corporation,
RESPONDENTS.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

CASE NO. 2334

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF SAID COURT;
SITTING IN EQUITY:

Comes now the Respondent, Mrs. Orphie A. Parker,
in the above entitled cause and excepts to each and every in-
terrogatory heretofore filed in this cause and prays that your
Honor will order a reference before the Register to determine
whether these interrogatories should be answered or not. As
grounds of such exception the Respondent, Mrs. Orphie A. Parker,
says as follows:

FIRST:

That the answer to these interrogatories are as
much within the knowledge of the Complainant as the Respondent.

SECOND:

That the interrogatories are too general in nature
to be answered intelligently.

THIRD:

To require the Respondent to answer propounded
interrogatories would be to require her to disclose the names
of her witnesses and the evidence she expects to present in this
case.

FOURTH:

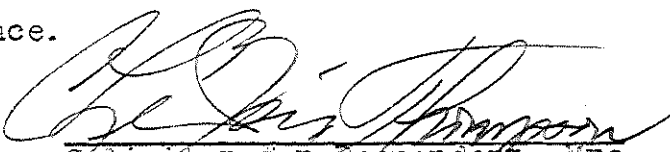
This is a fishing expedition.

FIFTH:

By reasonable inquiry and diligence the Complain-
ant could ascertain the answers to these interrogatories without
propounding them to the Respondent.

SIXTH:

The answers to these interrogatories are irrelevant,
incompetent and immaterial evidence.


Solicitor for Respondent, Mrs.
Orphie A. Parker.

M. C. POWERS

COMPLAINANT

VS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,

RESPONDENTS

EXCEPTION TO INTERROGATORIES

FILED

MAR 27 1951

ALICE J. DUCK, Register

From the law offices of
C. LeNoir Thompson
Bay Minette, Alabama

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,
Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA.

CASE NO. 2334,

IN EQUITY..

ORDER

This cause coming on to be heard is submitted on a motion of the complainant and cross-respondent to strike certain allegations of the cross bill, as amended, heretofore filed by the respondents and cross-complainants, and the same being considered by the Court, the Court is of the opinion that the said motion should be granted in part and denied in part. It is, therefore,

ORDERED, ADJUDGED AND DECREED

1. That the motion is granted as to the allegation in paragraph 1 of the cross bill, as amended, reading as follows:
"Estimate were obtained by the said Mrs. Eula A. Hill prior to beginning this work by the said M. C. Powers agreed that said estimates were too high and that his doing the work at cost would aid and benefit said Mrs. Hill."

2. That the motion is granted as to the allegation in paragraph 2 of the cross bill, as amended, reading as follows:
"Before each bit of repairs was completed said M. C. Powers would urge small additional repair jobs saying the cost would be very little and would begin such work without proper authorization."

3. That the motion is granted as to all of the allegations in paragraph 3 of said cross bill, as amended.

4. That the motion is granted as to the allegation in paragraph 5 of said cross bill, as amended, reading as follows:
"as she had obtained some money unexpectedly."

5. That the motion is denied as to the allegation in paragraph 5 of said cross bill, as amended, reading as follows:

"Said Mrs. Hill told him that she could not pay more than One Thousand (\$1000.00) Dollars for the work to be done."

6. That the motion is denied as to the remainder of the allegations in said cross bill, as amended.

Done and ordered this 10th day of April, 1951.

Julian A. Mashburn, Jr.
CIRCUIT JUDGE.

M. C. POWERS,

Complainant,

VS.

MRS. EULA A. HILL, MRS.
ORPHIE A. PARKER, THE
FAIRHOPE SINGLE TAX CORPOR-
ATION, A CORPORATION,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 2334.

DECREE SUSTAINING DEMURRER

This cause coming on to be heard is submitted on respondent's Demurrer to complainant's Bill of Complaint and the same being considered and understood by the Court, the Court is of the opinion that said demurrer should be sustained. It is therefore

ORDERED, ADJUDGED AND DECREED that respondent's Demurrer to complainant's Bill of Complaint be, and the same hereby is sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that complainant have thirty days in which to file amended pleadings if he so desires.

Done and Ordered this 6th day of September, 1949.

J. J. Maslbury, Jr.
Judge

M. C. POWERS,

Complainant,

VS.

MRS. EULA A. HILL, MRS.
ORPHIE A. PARKER, THE
FAIRHOPE SINGLE TAX CORPOR-
ATION, A CORPORATION,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. NO. 2334.

DECREE OVERRULING DEMURRER

This cause coming on to be heard is submitted on respondents' Demurrer to Complainant's Bill of Complaint as Amended and the same being considered and understood by the Court, the Court is of the opinion that said Demurrer is not well taken and should be overruled. It is therefore

ORDERED, ADJUDGED AND DECREED that Respondents' Demurrer to Complainant's Bill of Complaint as Amended be, and the same is hereby overruled.

Done and Ordered this 31st day of October, 1949.

Jelfair G. Mashburn, Jr.
Judge

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,
Respondents

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA.

IN EQUITY.

CASE NO. 2334.

DECREE SUSTAINING DEMURRER

This cause coming on to be heard is submitted on complainant's-cross-respondent's demurrer to respondents'-cross-complainants' cross bill in the above styled cause, and the same being considered and understood by the Court, the Court is of the opinion that said demurrer should be sustained. It is, therefore,

ORDERED, ADJUDGED AND DECREED that complainant's-cross-respondent's demurrer to respondents'-cross-complainants' cross bill be, and the same is hereby sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the respondents-cross-complainants have twenty days from this date in which to amend their cross bill, and if the said cross bill is not amended within that time, it will be dismissed.

Done and ordered this 13th day of February, 1951.

Julius A. Madbury, Jr.
CIRCUIT JUDGE.

AMENDMENT TO CROSS-BILL

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,

Respondents

IN THE CIRCUIT COURT OF

BALDWIN COUNTY,

ALABAMA,

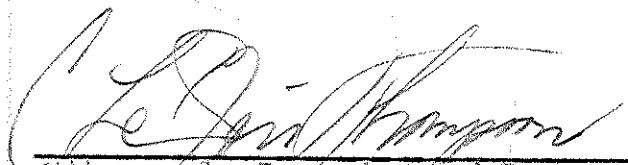
IN EQUITY.

NO. 2334

TO THE HONORABLE TELFAIR J. WASHBURN, JR., JUDGE OF SAID COURT, SITTING
IN EQUITY:

Comes C. LeNoir Thompson as attorney for the said Mrs. Orphie A.
Parker amends the cross-bill heretofore filed against the said M. C.
Powers, complainant and cross-respondent by striking paragraph eight
(8) of said cross-bill and inserting therein as paragraph eight (8) amended,
the following:

These premises considered that the court will make the said
complainant and cross-respondent M. C. Powers a party to this cause and
cross-respondent and that process may issue against cross-respondent
requiring him to appear, plead or answer within the time prescribed by
law the allegations of said cross-bill and that said cross-respondent
be directed to pay to your cross-complainant the sum of One Hundred Fifty-
Six Dollars and Seventy-Five Cents (\$156.75) together with the value of
eighteen days labor by subscription contributors with interest thereon
for both sums from May 19, 1949.



Attorney for Respondent and Cross-
Complainant.

M.C. POWERS
COMPLAINANT

VS

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, a Corporation,
RESPONDENTS.

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

DEMURRER

Comes the Respondents in the above styled cause and for demurrer to said Bill of Complaint, says:

1. That said Bill of Complaint does not state a cause of action.
2. That said Bill of Complaint does not allege whether or not the contract stated in Count 1 was in writing.
3. That said Bill of Complaint does not set out a maximum or minimum amount as the total of said contract.
4. That said Complaint does not allege in sufficient detail the repairs, improvements, or beautification of said dwelling house to enable the Respondents to answer the said Bill of Complaint.
5. That said contract is void under the statute of frauds in that for aught that appears in said complaint, the said contract was oral and extended for more than a year.
6. For aught that appears in said complaint the Respondents, Mrs. Orphie A. Parker was not a party to said contract.
7. For aught that appears in said complaint that said work was done at the instance of Respondent, Mrs. Eula A. Hill with the knowledge that said Respondent's interest was to be conveyed to Respondent, Mrs. Orphie A. Parker.
8. That said Complaint does not allege any demand against any of the Respondents for monies due and unpaid.
9. That said Complaint does not do Equity in that it fails to set forth the public interest in the improvements of said property.

10. That said Complaint does not do Equity in that it fails to set forth or ^{2c}count for grants, contributions, gifts, or donations received by Complainant in behalf of any Respondent to said cause.

Chas. H. Thompson
Attorney for Respondents,
Ophie A. Parker, & Eula A. Hill.

RECORDED

RECORDED

BILL OF COMPLAINT

M. C. POWERS,
Complainant

No. 2334

-vs-

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, a corporation,
Respondents. 0

IN THE CIRCUIT COURT FOR
BALDWIN COUNTY, ALABAMA,
In Equity.

To the Honorable TELFAIR J. MASHBURN, Judge of Said Court,
in Equity, Sitting:

Your orator, M. C. POWERS, over the age of twenty-one years and a resident of Baldwin County, Alabama, brings this Bill of Complaint against Mrs. EULA A. HILL, who is over the age of twenty-one years and a resident of Excambia County, Alabama, Mrs. ORPHIE A. Parker, who is over the age of twenty-one years and a resident of Baldwin County, Alabama and the FAIRHOPE SINGLE TAX CORPORATION, a corporation, doing business in Baldwin County, Alabama and incorporated in that County and State, and humbly complains and shows unto your Honor as follows:

1. That your orator, a building contractor, entered into a contract with the defendant, Mrs. Eula A. Hill, whereby your orator was to repair, improve or beautify the dwelling house then owned by said defendant, on land leased to her by the defendant, The Fairhope Single Tax Corporation; that under the terms of said contract, the defendant, Mrs. Eula A. Hill, was to pay your orator for all labor and materials used in said dwelling house.

2. That said dwelling house was and is located on the following described land, in the Town of Fairhope, Baldwin County, Alabama, to-wit:

Lot 7 of Block 30 of Division 2 of the land of the Fairhope Single Tax Corporation, according to its map or plat thereof filed for record in the Office of the Probate Court for Baldwin County, Alabama.

3. That your orator did furnish all the labor and materials for repairing, beautifying or improving said dwelling house and all work and material pertaining to the same; that said work was completed on, to-wit: the 18th day of December, 1948.

That under the terms of said contract the defendant, Mrs. Eula A. Hill was to pay the balance due thereunder on, to-wit: the 15th day of March, 1949, and that on that date, there was due and unpaid to your orator the sum of Five Hundred Fifty Two and 90/100 (\$552.90) which sum of money, with the interest thereon is still due and unpaid.

4. That soon after said date defendant Mrs. Eula A. Hill conveyed her leasehold interest and the improvements and dwelling house on said land to the defendant, Mrs. Orphie A. Parker and that said defendant, Mrs. Orphie A. Parker is the present owner of said structure on which said labor and material was furnished:

5. That on the 15th day of March, 1949, the indebtedness sued on accrued, and is claimed by plaintiff for such labor and materials furnished by complainant as original contractor. Complainant avers that said work and labor and material furnished was completed on the 18th day of December, 1948 and that thereafter, within six months from said date on, to-wit: the 27th day of April, 1949 plaintiff filed in the office of the Judge of Probate for Baldwin County, Alabama a statement in writing, verified by the oath of the complainant, containing the amount of demand of complainant and secured by the lien claimed, after allowing all credits, a description of the property on which the lien is claimed, in such manner as same might be identified or located and the name of the owner thereof.

6. That no part of said debt of Five Hundred Fifty Two and 90/100 (\$552.90) Dollars has been paid, notwithstanding demand has been made therefor.

7. That complainant claims a lien for said amount on the defendant Orphie A. Parker's leasehold interest to the above described land of the Fairhope Single Tax Corporation and the dwelling house located thereon and prays that same be established, and that said leasehold interest and the improvements on said land be sold for the satisfaction of said lien.

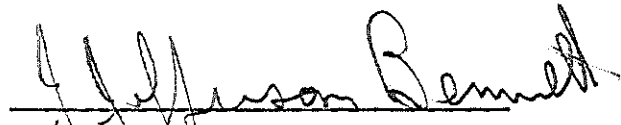
8. WHEREFORE, PREMISES CONSIDERED, the complainant prays:

(1) That the above named Eula A. Hill, Orphie A. Parker and The Fairhope Single Tax Corporation be made parties Respondent in this cause and that process may issue against said respondents, requiring them to appear and answer, (but not under oath), within the time prescribed by law, the allegations of this bill of complaint.

(2) That the defendant, Eula A. Hill be directed and decreed to pay to the Complainant the sum of Five Hundred ~~XXXXXX~~ Fifty Two and 90/100 (\$552.90) Dollars, with interest thereon since the 15th day of March, 1949.

(3) That a lien in favor of the complainant be established against the lessee's leasehold interest and the improvements on the above described land and that a sale thereof be ordered for the satisfaction of said lien.

(4) In the event your complainant has not prayed for proper relief, then he prays for such other, different and further relief as the nature of the case and ^{to} the good conscience of this court may seem meet and proper.


J. Jefferson Bennett,
Attorney for the Complainant.

AMENDMENT TO THE BILL OF COMPLAINT

M. C. POWERS,
Complainant

-vs-

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, a corporation,
Respondents.

NO. 2334

IN THE CIRCUIT COURT FOR
BALDWIN COUNTY, ALABAMA,
In Equity.

To the Honorable TELFAIR J. MASHBURN, Judge of Said Court, in Equity
Sitting:

Comes now the Complaint in the above styled cause and
amends the Bill of Complaint heretofore filed herein, as follows:

FIRST: Paragraph 1 of said Bill of Complaint is deleted
and in lieu thereof the following is inserted, to-wit: "That your
orator, a building contractor, entered into an oral contract with
the Defendant, Mrs. Eula A. Hill, whereby your orator agreed to
repair, improve, or beautify the dwelling house then owned by said
Defendant, your orator furnishing all necessary labor and materials,
situated on land leased to her by the Defendant, the Fairhope Single
Tax Corporation; in consideration of the promise of the Defendant,
Eula A. Hill, to pay your orator for all labor and materials used
in said work, said payments to be made as the work progressed."

SECOND: Paragraph 3 of said Bill of Complaint is deleted
and in lieu thereof the following is inserted to-wit: "That your
orator did furnish all the labor and materials necessary to repair,
improve and beautify said dwelling house and all work and materials
pertaining to the same and did completely carry out and execute
his promise under the terms of said contract and that said work was
completed on, to-wit: The 18th day of December, 1948 at a total
cost of \$1916.49. That under the terms of said contract the Defendant,
Mrs. Eula A. Hill, was to pay to the Complaint the balance due for
said labor and materials on, to-wit: The 15th day of March, 1949,
and that on that date there was due and unpaid to your orator the
sum of \$552.90. That since the filing of the Bill of Complaint in
this cause, the Respondent, Orphie A. Parker has paid to the Complainant
the sum of \$120.00, leaving a balance due and unpaid of \$432.90,

which sum of money, with the interest thereon, is still due and unpaid."

THIRD: In paragraph 4 of said Bill of Complaint, line 1, immediately following the word "date" add the following;

"On to-wit: The 19th day of April, 1949, the."

(6)

FOURTH: Paragraph ~~is~~ deleted and in lieu thereof the following is substituted "That no part of said debt of Four Hundred Thirty-Two and 90/100 (\$432.90) Dollars has been paid, notwithstanding demand has been made therefore."

FIFTH: In sub-paragraph (2) of paragraph 8 of said Bill in lines 2 and 3 thereof, delete the word and figures "Five Hundred Fifty-Two and 90/100 (\$552.90) Dollars, and in lieu thereof insert the following; "Four Hundred Forty-Two and 90/100 (\$432.90) Dollars." *218*

J. Jefferson Bennett

J. Jefferson Bennett
Solicitor for Complainant

*Received copy of within Complaint
this 27, this day 7 Sept. 1949*

C. L. Davis Thompson
Atty for Hill & Parker

M. C. POWERS
COMPLAINANT

VS

MRS. EULA A. HILL,
MRS. ORPHIE A. PARKER,
THE FAIRHOPE SINGLE TAX
CORPORATION, a Corporation,
RESPONDENTS.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

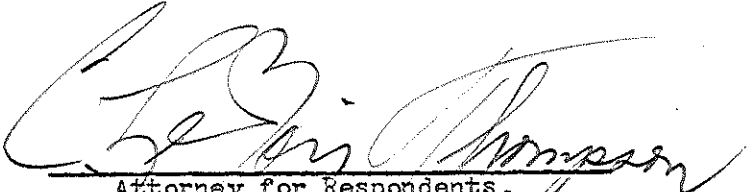
DEMURRER

Comes the Respondents in the above styled cause and for demurrer to said Bill of Complaint, says:

1. That for aught that appears in said Amended Complaint one oral contract is alleged in paragraph one amended and another contract is alleged in paragraph two amended.

2. For aught that appears in the Bill of Complaint your Respondent, Mrs. Orphie A. Parker, was not a party to the contract alleged by your Complainant; nor does your Complainant allege that said Respondent had any notice of the lien aforesaid prior to taking title to said property; nor does your Complainant allege the recording of said lien prior to the transfer of title from Mrs. Eula A. Hill, Respondent, to Mrs. Orphie A. Parker, Respondent.

3. For aught that appears in said Complaint, as amended, the Respondent, Mrs. Orphie A. Parker, was not a party to said contract.


Attorney for Respondents,
Orphie A. Parker, & Eula A. Hill.

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,
Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA,
IN EQUITY.
CASE NO. 2334.

TO THE HONORABLE TELFAIR J. MASHBURN, JR., JUDGE OF SAID COURT,
SITTING IN EQUITY:

Comes the complainant in the above entitled cause and exhibits the following interrogatories to the respondent, Mrs. Orphie A. Parker, to be answered in writing under oath by the said respondent within the time required by law:

1. State your full name, and the City and County in which you reside.
2. Are you the daughter of the late Mrs. Eula A. Hill?
3. Are you the owner of the following described premises, located in the City of Fairhope, Baldwin County, Alabama, on the following described land of the Fairhope Single Tax Corporation: Lot Seven (7) of Block Thirty (30) of Division Two (2), according to the map or plat of the Fairhope Single Tax Corporation, filed for record in the Office of the Probate Court for Baldwin County, Alabama?
4. If your answer to interrogatory 3 is in the affirmative, what was the date that you became the owner of the said premises?
5. Was your mother, Mrs. Eula A. Hill, the owner of the said premises prior to your becoming owner thereof?
6. Did the said Mrs. Eula A. Hill convey the said premises to you? If so, on what date were they conveyed?
7. Attach to your answers to these interrogatories a copy of the instrument by which the said premises were conveyed to you.
8. Is the land on which the said premises are located owned by the Fairhope Single Tax Corporation of Fairhope, Alabama?
9. If your answer to interrogatory 8 is in the affirmative, did the Fairhope Single Tax Corporation lease the said land to you,

and if so, for what term? Attach to your answers to these interrogatories a copy of the lease or instrument leasing the said land by the Fairhope Single Tax Corporation to you.

10. Is there any lien or encumbrance on the above described property other than the lien hereinbefore filed by the complainant, M. C. Powers? Attach to your answers a certified copy of each of such liens or encumbrances, including liens for unpaid taxes.

11. At the time of the filing of the original complaint in the Circuit Court of Baldwin County, Alabama, Case No. 2334, by M. C. Powers naming you, Mrs. Eula A. Hill, and the Fairhope Single Tax Corporation, a corporation, as respondents, were you the owner of the improvements on the above described land?

12. What was the consideration for the conveyance to you of the improvements on the above described land from your mother, Mrs. Eula A. Hill?

13. At the time that the improvements on the above described premises were conveyed to you by your mother, Mrs. Eula A. Hill, did you know that M. C. Powers had done some work to improve the above described premises on the above described land?

14. Who was the owner of the said property at the time M. C. Powers commenced his work to improve the same?

15. Who was the owner of the said property at the time M. C. Powers completed his work on the said property?

16. Before M. C. Powers commenced work to improve the said property, did you know that your mother, Mrs. Eula A. Hill, had entered into an agreement with the said M. C. Powers, whereby he was to improve the said property?

17. At the time the improvements were commenced by M. C. Powers, who was living in the house on the above described property?

18. Before the said M. C. Powers commenced work on the said property, was it about to be condemned by the City of Fairhope as an unfit place to live, or had it already, at that time, been condemned as an unfit place to live, and if so, what person or persons had condemned the same?

19. Did you, on or about November, 1948, contact G. R. Gipson, and request of him, in substance, to give you an estimate on the repairs which would be necessary to put the house in a livable condition?

20. If your answer to interrogatory 19 is in the affirmative,

did the said G. R. Gipson come to the house on the above described land and talk the matter over with you?

21. What is the occupation of the said G. R. Gipson?

22. Did the said G. R. Gipson tell you when he arrived, in substance, that inasmuch as the house was uneven, a foundation man should be consulted and should do the work in leveling the house?

23. Did the said G. R. Gipson recommend as a foundation man to level the said house from its uneven condition M. C. Powers?

24. Did you contact the said M. C. Powers in accordance with the recommendation of the said G. R. Gipson to do the work of leveling the said house?

25. Did M. C. Powers come to the said house on or about November, 1948, to discuss with you and your mother, Mrs. Eula A. Hill, how you and she wanted the work performed by the said M. C. Powers, and what work he was to so perform?

26. With reference to the matter contained in interrogatory 25, did Mrs. Eula A. Hill discuss with M. C. Powers what she wanted him to do in the way of repairing the house on the above described land?

27. Were you present when that conversation between Mrs. Eula A. Hill and M. C. Powers took place?

28. Did you give any instructions also to M. C. Powers as to how you wanted the work done?

29. Did Mrs. Eula A. Hill ask you, in substance, whether you would be satisfied with such improvements, and if so, did you tell her, in substance, that the improvements that she had arranged were all right with you and that it would be all right for M. C. Powers to commence work as said Mrs. Eula A. Hill and you had outlined to the said M. C. Powers in your conversation with him?

30. In your presence, at that time, did Mrs. Eula A. Hill agree to pay said M. C. Powers for all the work, labor and materials that went into repairing the said house, as had been set out in the conversation between you, Mrs. Eula A. Hill, and M. C. Powers?

31. Were you living in the said house at the time that M. C. Powers came there to make arrangements with you and Mrs. Eula A. Hill relative to repairing the same?

32. After the improvements were to be completed, who was to occupy and live in the said house?

33. At the conversation between M. C. Powers, you, and Mrs.

Eula A. Hill, relative to the arrangements for repairing the house, before the repairs were commenced, did you or Mrs. Eula A. Hill agree with said M. C. Powers, in substance, to pay for the materials when the job was done, and agree that said M. C. Powers should obtain the bills from each materialman for the materials, and agree, in substance, that said bills would be payed for when they were submitted to you and/or Mrs. Eula A. Hill?

34. At the conversation which took place between the said M. C. Powers, Mrs. Eula A. Hill, and you, relative to the arrangements and agreements for the repairs which were contemplated on the house situated on the said land, who else, if anyone, was present when these arrangements were made?

35. At the time the conversation took place, as noted in interrogatory 34, did you know that Mrs. Eula A. Hill was going to give or convey the said house on the said land to you?

36. Did you agree that, inasmuch as said M. C. Powers had the labor at hand, that he should go ahead and complete the job?

37. After said M. C. Powers and his employees had commenced work on the said house, were you then occupying the same?

38. If your answer to interrogatory 37 is in the affirmative, then did you object to him that he should not continue with the work?

39. At the conversation mentioned in interrogatory 34, did Mrs. Eula A. Hill agree to pay his workmen, and if so, did she also agree to pay M. C. Powers \$1.50 per hour for his own labor?

40. While the work was being performed on the house by M. C. Powers and his employees, were you occupying the house?

41. (a) Where were you employed at the time the work by M. C. Powers on the said house was going on? (b) What time did you leave the said house for work and what time did you return in the evening?

42. Were you at the house at any time while said M. C. Powers was working on the place?

43. While M. C. Powers was working on the house and making improvements on the said house, did you give him instructions as to how you wanted the house repaired? If your answer to interrogatory 43 is in the affirmative, what were some of the instructions which you gave M. C. Powers relative to the way the said house should be repaired?

44. Among other things, did you show M. C. Powers where you wanted the lavatory and bathroom fixtures placed?

45. Among other things, did you instruct M. C. Powers that you wanted him to build some shelves in the house?

46. If you gave said M. C. Powers instructions as to how you wanted the work performed before the work was commenced, were you authorized to give such instructions by Mrs. Eula A. Hill?

47. If your answer to interrogatory 46 is in the negative, then did Mrs. Eula A. Hill object to you that you should not, in substance, give instructions to M. C. Powers as to how you wanted the work performed?

48. If your answer to interrogatory 46 is in the negative, did you inform M. C. Powers that said Mrs. Eula A. Hill objected to your giving instructions as to how you wanted the work performed, or did you inform said M. C. Powers that you were not authorized by Mrs. Eula A. Hill to give him instructions as to how you wanted the work performed by M. C. Powers?

49. If you gave instructions to M. C. Powers as to how you wanted the work performed by him after he had commenced the said work, were you authorized by Mrs. Eula A. Hill to give such instructions?

50. If your answer to interrogatory 49 is in the negative, then did Mrs. Eula A. Hill object to you that you should not, in substance, give instructions to M. C. Powers as to how you wanted the work performed?

51. If your answer to interrogatory 49 is in the negative, did you inform M. C. Powers that said Mrs. Eula A. Hill objected to your giving instructions as to how you wanted the work performed, or did you inform said M. C. Powers that you were not authorized by said Mrs. Eula A. Hill to give him instructions as to how you wanted the work performed by M. C. Powers?

52. (a) After the work on the said house had been commenced by M. C. Powers, did you instruct M. C. Powers to tear down the chimney in the said house? (b) Did you instruct M. C. Powers to build a large brick chimney, fire place, and mantel?

53. What were the dimensions of the old chimney which was torn down to make room for the new one?

54. What is the size of the new chimney that has been built by M. C. Powers, and/or his employees?

55. Was M. C. Powers and/or his employees in building the new chimney to use the bricks from the old chimney which could be saved when the same was torn down?

56. As the work progressed, did M. C. Powers submit to Mrs. Eula A. Hill and/or you the labor bills for the labor that was performed?

57. On or about November 13, 1948, did M. C. Powers submit to you a bill for the labor for the week ending November 13, 1948, in the amount of \$153.80?

58. (a) If your answer to interrogatory 57 is in the affirmative, did you and/or Mrs. Eula A. Hill pay him for such amount, or any part thereof? (b) If so, attach to you answers to these interrogatories a copy of a receipt from M. C. Powers, a copy of a cancelled check, or a copy of any other evidence of payment.

59. Did M. C. Powers submit to you and/or Mrs. Eula A. Hill, on or about November 20, 1948, the bill for the labor that was performed in repairing the said house for the week ending November 20, 1948, in the amount of \$248.40, and did he demand payment therefor?

60. (a) Did you and/or Mrs. Eula A. Hill pay the said amount of \$248.40, or any part thereof, covering the labor that was performed on the said house for the week ending November 20, 1948? (b) If your answer to interrogatory 60.(a) is in the affirmative, then attach to your answers to these interrogatories a copy of a receipt from M. C. Powers, a copy of a cancelled check, or a copy of other evidence of payment?

61. Did M. C. Powers submit to you and/or Mrs. Eula A. Hill, on or about November 27, 1948, a bill for the labor that was performed on the said house for the week ending November 27, 1948, in the amount of \$91.60?

62. (a) Was such bill in the amount of \$91.60, or any part thereof, paid by you and/or Mrs. Eula A. Hill? (b) If your answer to interrogatory 62.(a) is in the affirmative, then attach to your answers to these interrogatories a copy of a cancelled check, receipt from M. C. Powers, or other evidence of payment.

63. Did M. C. Powers submit to you and/or Mrs. Eula A. Hill, on or about December 4, 1948, a bill for labor performed on the said house for the week ending December 4, 1948, in the amount of \$300.00?

64. (a) Did you and/or Mrs. Eula A. Hill pay said bill in the

amount of \$300.00, or any part thereof? (b) If your answer to interrogatory 64.(a) is in the affirmative, then attach to your answers to these interrogatories a copy of a receipt by M. C. Powers, a copy of a cancelled check, or other evidence of payment, showing that the said amount has been paid.

65. On or about December 11, 1948, did M. C. Powers submit to you and/or Mrs. Eula A. Hill a bill for the labor performed on the said house for the week ending December 11, 1948, in the amount of \$345.45?

66. (a) Did you and/or Mrs. Eula A. Hill pay said bill or any part thereof? (b) If your answer to interrogatory 66.(a) is in the affirmative, then attach to your answers to these interrogatories copies of all receipts, cancelled checks, or other evidence of payment, showing that such payment has been made.

67. On or about December 18, 1948, did M. C. Powers submit to you and/or Mrs. Eula A. Hill a bill for the labor performed on the said house for the week ending December 18, 1948, in the amount of \$121.00?

68. (a) Did you and/or Mrs. Eula A. Hill pay said bill or any part thereof? (b) If your answer to interrogatory 68.(a) is in the affirmative, then attach to your answers to these interrogatories a copy of the receipt from M. C. Powers, a copy of a cancelled check, or other evidence of payment, showing that such payment has been made.

69. Did M. C. Powers charge you and/or Mrs. Eula A. Hill for the labor that was performed in repairing or improving the said house for the week ending November 6, 1948, in the amount of \$90.65?

70. If your answer to interrogatory 69 is in the negative, did M. C. Powers tell you, in substance, that no charge was being made for the labor for the week ending on November 6, 1948, as each person working on the job had agreed to give up some time, the total amount of which was 88 hours, totaling \$90.65?

71. Was it understood and agreed between you, Mrs. Eula A. Hill, and M. C. Powers that the bills for materials would be presented to you and/or Mrs. Eula A. Hill when the job was completed?

72. Was it your understanding that the material bills would be submitted by the materialmen to M. C. Powers and that he would present you and/or Mrs. Eula A. Hill with such bills when the work was completed?

73. Was a material bill for miscellaneous materials submitted to you and/or Mrs. Eula A. Hill by M. C. Powers in the amount of \$45.91?

74. (a) Did you and/or Mrs. Eula A. Hill pay such bill for miscellaneous materials? (b) If your answer to interrogatory 74.(a) is in the affirmative, then attach to your answers to these interrogatories a copy of the receipts from M. C. Powers, or cancelled checks, or other evidence of payment of such bill for miscellaneous materials.

75. On or about December 18, 1948, did M. C. Powers submit to you and/or Mrs. Eula A. Hill the bills for the materials used in repairing the said house in the aggregate amount of \$398.97?

76. (a) Did you and/or Mrs. Eula A. Hill pay such bill or bills aggregating \$398.97, or any part thereof? (b) If your answer to interrogatory 76.(a) is in the affirmative, then attach to your answers to these interrogatories the receipts or cancelled checks or other evidence of payment of such amount or any part thereof.

77. (a) Was a bill presented to you and/or Mrs. Eula A. Hill by M. C. Powers, showing that the Ponder Company bill for materials was \$27.78? (b) That the W. T. Walley Lumber Company bill was \$31.27; that the Western Woodworking Company bill for materials was \$116.87; that the Fairhope Hardware Company bill for materials was \$119.88; that the Wilmer Paint Store's bill for materials was \$65.65; that Hary Cramer's bill for materials was \$22.52; that M. C. Power's bill for concrete blocks furnished was \$15.00; and that the total of all of such material bills was \$398.97, as mentioned in the preceding interrogatory? (c) If you and/or Mrs. Eula A. Hill have paid said material bills or any part thereof, then attach to your answers to these interrogatories all the receipts, and/or cancelled checks, or other evidence of payments made the said M. C. Powers for such material bills.

78. Attach to your answers to these interrogatories copies of all the receipts, cancelled checks, or other evidence of payment, which you have in your possession, showing the payments that have been made for the labor and materials furnished by said M. C. Powers, and/or his employees, in repairing or improving the premises situated on the above described land. If you and/or Mrs. Eula A. Hill have paid any of the bills for labor and/or materials to persons other than the said

M. C. Powers, then attach to your answers to these interrogatories copies of each of the receipts, cancelled checks, or other evidence of payment made to persons other than M. C. Powers, in payment of the bills for labor and/or materials furnished in repairing or improving the said premises on the above described land.

79. Did M. C. Powers submit the bills for the unpaid balance due on the labor and for the materials after the work by M. C. Powers on the said premises had been completed to you?

80. Did M. C. Powers submit the bills for the unpaid balance due on the labor and for the materials after the work by M. C. Powers on the said premises had been completed to Mrs. Eula A. Hill?

81. If your answer to either interrogatory 79 or 80 is in the affirmative, did you tell M. C. Powers, in substance, that you would take care of such bills as soon as possible?

82. If your answer to either interrogatory 79 or 80 is in the affirmative, did Mrs. Eula A. Hill, in your presence, tell M. C. Powers, in substance, that she would take care of said bills as soon as possible?

83. (a) Did you accept the work done by M. C. Powers, and/or his employees, in making the repairs or improvements to the said premises on the above described land after the said work had been completed? (b) Did you complain that the work was done unsatisfactorily at any time while the work was going on or after it was completed to the said M. C. Powers?

84. Did Mrs. Eula A. Hill, in your presence, express to M. C. Powers any dissatisfaction with the work after it was completed?

85. (a) Were you satisfied with the work done by M. C. Powers, after the same was completed? (b) If your answer to interrogatory 85.(a) is in the negative, then did you ever express your dissatisfaction with the work to M. C. Powers?

86. (a) While the work was going on; that is, while M. C. Powers and his employees were improving the said house, did you request M. C. Powers to build a front porch on the place, and did you instruct him how you wanted the porch built, and also how you wanted the steps built leading down from the porch? (b) If your answer to interrogatory 86.(a) is in the affirmative, then did M. C. Powers, and/or his employees, build the said porch in the manner in which you had instructed? (c) If your answer to interrogatory 86.(a) is in

the affirmative, were you authorized by Mrs. Eula A. Hill to make such request and give such instructions to M. C. Powers? (d) If your answer to interrogatory 86.(c) is in the negative, did Mrs. Eula A. Hill object after the work on the porch had been completed, that it should not have been done? (e) If your answer to interrogatory 86.(c) is in the negative, did Mrs. Eula A. Hill, in your presence, ever tell M. C. Powers that you were not authorized to give such instructions regarding the building of the said porch?

87. After M. C. Powers had completed the work in repairing or improving the said house and premises, did you request him to do more work, such as re-work a cabinet?

88. As the work was going on, in repairing or improving the said house by M. C. Powers, and/or his employees, did you request that he ceil a room with beaver board?

89. (a) Did you instruct M. C. Powers how you wanted a long room on the back of the house laid out? (b) If your answer to interrogatory 89.(a) is in the affirmative, did Mrs. Eula A. Hill authorize you to give M. C. Powers such instructions? (c) If your answer to interrogatory 89.(b) is in the negative, did Mrs. Eula A. Hill object to M. C. Powers that she did not want the work done as you had instructed regarding the long room on the back of the house? (d) Did Mrs. Eula A. Hill accept the work regarding the long room as satisfactory after it was completed?

90. At the time the premises on the above described land were conveyed by Mrs. Eula A. Hill, did you know that there was a dispute between M. C. Powers and Mrs. Eula A. Hill regarding the unpaid balance claimed by M. C. Powers for the labor and materials furnished in improving the said premises?

91. On April 27, 1949, did M. C. Powers file in the Office of the Probate Court for Baldwin County, Alabama, a statement in writing verified by his oath containing the amount of demand, for which this suit was commenced, so that a lien on the said property would be established, giving the name of the owner of the land as the Fairhope Single Tax Corporation, and you as the lessee thereof?

92. You have alleged in paragraph 2 of your cross-bill that before each bit of repairs was completed, said M. C. Powers would urge small additional repairs, saying the cost would be very little, and would begin such work without proper authorization. Itemize the repairs that you alleged that M. C. Powers would urge.

93. (a) Is it not a fact that you and/or Mrs. Eula A. Hill instructed M. C. Powers for each repair job that he was to do, and that you and/or Mrs. Eula A. Hill told him how you wanted the jobs completed? (b) Give an itemized list of the repair work that M. C. Powers did without authorization from either you or Mrs. Eula A. Hill, together with the costs of each repair job done without proper authorization, as you have alleged.

94. In paragraph 5 of your cross-bill, you have alleged that M. C. Powers circulated a public subscription whereby he collected the sum of \$156.75, toward paying for said repairs?

95. Is it not a fact that said public subscription was collected by Raymond Powers and that all of the money that was collected from such public subscription was turned over to Mrs. Eula A. Hill, and/or you, so that she and/or you could do with it as she and/or you wished?

96.. In paragraph 6 of your cross-bill, you have alleged that there was paid by said Mrs. Eula A. Hill certain payments totaling \$669.05, which were not accounted for nor credit given. Attach to your answers to these interrogatories receipts or cancelled checks or other evidence of payment of said monies to M. C. Powers.

97. In said paragraph 6 of your cross-bill, you have alleged that no credit was given "for \$130.00 allowed for three abstracts furnished said M. C. Powers by Claude Arnold on instructions of Mrs. Eula A. Hill". (a) Is it not a fact that the three abstracts furnished M. C. Powers by Claude Arnold which are referred to cost \$40.00 each, or a total of \$120? (b) Did you receive a receipt from M. C. Powers giving you credit for \$120.00 to be applied against the account for work and labor done to your residence, leaving a balance due of \$432.90? (c) Attach to your answers to these interrogatories a copy of such receipt. (d) Was the original complaint filed by M. C. Powers, asking a lien on your property, for the amount of \$552.90? (e) Was not the original complaint amended by said M. C. Powers to show that the unpaid balance of the debt was \$432.90, instead of \$552.90? (f) Did not this amendment give you credit for the \$120.00, the amount of the three abstracts which were furnished M. C. Powers by Claude Arnold at the request of Mrs. Eula A. Hill?

98. In paragraph 7 of your cross-bill, you have alleged "that said monies and credits total \$1955.05". Give an itemized state-

ment showing how you have arrived at such figure of \$1955.05, showing in what manner or on what grounds or by what particulars you or Mrs. Eula A. Hill calculated the said moneys and credits. Show also in your answer to this interrogatory how you arrived, by what means or by what particulars or in what manner, at the amount which you allege in paragraph 7 of your cross-bill as being an overpayment in the amount of \$402.15. Attach to your answers to these interrogatories copies of every receipt, credit memorandum, cancelled check, or other evidence of payment or credit that you have in your possession, showing how you have arrived at an overpayment in the amount of \$402.15.

William R. Lauten,
ATTORNEY FOR COMPLAINANT
AND CROSS RESPONDENT

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state of ALABAMA,
BALDWIN county.

Elliott G. Rickard

Before me, _____, a Notary Public in and for said County in said State, personally appeared William R. Lauten, known to me, who, being by me first duly sworn, deposes and says: That he is of counsel for the plaintiff (complainant and cross respondent) in the above styled cause; that the answers to the foregoing interrogatories, if truthfully made, will be material evidence for the said complainant and cross respondent in the trial of said cause.

William R. Lauten,
AFFIANT

Sworn to and subscribed before me this 15th day of February, 1951.

Elliott G. Rickard,
NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA.

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WILLIAM R. LAUTEN

ATTORNEY AT LAW

PITMAN BUILDING

FAIRHOPE, ALABAMA

March 28, 1951

Hon. Telfair J. Mashburn, Jr., Judge,
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: M. C. Powers
Vs: Mrs. Eula A. Hill, et al.

Dear Judge Mashburn:

I have filed interrogatories to the respondent, Orphie A. Parker, and she has filed exceptions to these interrogatories, and I am filing a motion to strike the exceptions and a motion to enforce the penalties for failure to answer the interrogatories.

Mr. Thompson and I are agreed that April 10 at 10:00 A. M. is convenient for hearing this motion, and Miss Nelson has entered the hearing on your docket for that time.

You will please find enclosed an order appointing the 10th day of April at 10:00 A. M. as the time for the hearing of the exceptions and of the motion to strike and enforce the penalties.

I have mailed a copy of this order to Mr. Thompson.

Please sign the order and place it in the file.

Thanking you, I am

Yours very truly,

William R. Lauten

L/n

Enc.

cc: Mr. C. LeNoir Thompson
Attorney at Law
Bay Minette, Alabama

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,
Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY,
ALABAMA.

CASE NO. 2334,
IN EQUITY.

TO THE HONORABLE TELFAIR J. WASHBURN, JR., JUDGE OF SAID COURT:

Comes the complainant in the above entitled cause and moves this Honorable Court to strike the exception heretofore filed to the interrogatories filed by the complainant in the above styled cause, showing unto this Honorable Court as follows:

1. That the complainant filed interrogatories to the respondent, Orphie A. Parker, on the 15th day of February, 1951.

2. That the 17th day of March, 1951, was the last day for the respondent, Orphie A. Parker, to answer the said interrogatories.

3. That this Honorable Court, upon motion of the respondent, Orphie A. Parker, by her solicitor, in open court, granted an extension of fifteen days to the respondent, Orphie A. Parker, to answer the said interrogatories, which fifteen day extension expired on the 2nd day of April, 1951.

4. That the respondent, Orphie A. Parker, has failed or refused to answer the said interrogatories within such period.

WHEREFORE, THE PREMISES CONSIDERED, the complainant prays that this Honorable Court will enforce the penalties provided by Equity Rule 39(b), in Title 7, Alabama Equity Rules, and the complainant prays for such other relief which he may be entitled to in the premises.


SOLICITOR FOR COMPLAINANT.

M. C. POWERS,
Complainant

VERSUS

MRS. EULA A. HILL, MRS. ORPHIE
A. PARKER, AND THE FAIRHOPE
SINGLE TAX CORPORATION, A
CORPORATION,
Respondents

I IN THE CIRCUIT COURT OF

I BALDWIN COUNTY,

I ALABAMA.

I CASE NO. 2334,

I IN EQUITY.

This day came the respondent, Orphie A. Parker, in the
above entitled cause and filed her exceptions to the interrogatories
heretofore propounded to her by the complainant.

It is ordered that the 10th day of April at 10:00 o'clock
A. M. be the day appointed for the hearing of these exceptions and
the motion of the complainant to strike the exceptions, and that
the same be heard before this Court on that day.

Done and ordered this 27th day of March, 1951.

Julius J. Mascherer, Jr.
CIRCUIT JUDGE.