

2577

That the said J. H. Manery shall have the right to visit said children at proper hours, but ^{neither party} shall ~~not~~ have the right to remove said children from Baldwin County without the written consent of the ^{other} ~~mother~~.

That in the event J. H. Manery becomes sick and unable to continue at his present or future employment, any default by him in the within mentioned payments during said illness or lack of employment shall not be considered a default by him in the performance of the obligations hereby assumed.

In the event that any dispute arise as to the necessity or amount of any obligation of either party and they are unable to agree, the matter shall be submitted to the Judge of the Circuit Court of Baldwin County, Alabama and his decision isto be accepted as final and binding on both parties.

Witness our hands this 3rd day of May, 1950.

J. H. Manery

Lena Mae Manery

Exhibit "A"

This Agreement made and entered into by and between
J. H. Manery and Una Mae Manery, husband and wife, WITNESSETH:

WHEREAS, there exist differences which up to the present
moment appear irreconcilable^{la} between the parties and which
prevent their living together as husband and wife, and

Whereas, the said J. H. Manery abandoned the said Una Mae
Manery on to-wit, October 18, 1949, and since said time said
parties have not lived together as man and wife, and said wife
has received no support from said husband, and

Whereas, said parties are the parents of Bettie Frances
Manery aged 9 years, and Shirley Jean Manery, aged 4 years,
and that said children should be supported and cared for by
said parents; now

Therefore, in consideration of the mutual agreements herein
contained and of the promises each to the other, the said
parties hereby agree as follows:

That said parties shall continue to live separate and apart,
the wife with the said children in the home now occupied by
them, she having the care, custody and control of said children .
That neither of the parties will interfere or intermeddle with
the other as to his or her liberty, conduct or actions.

That J. H. Manery will pay to Una Mae Manery, for the
support and maintenance of said children the sum of \$12.00 per
week, payable on each Saturday. He will also pay for the light
and power, water and sewerage, fuel oil and such other utilities
as are now used in the home occupied by the wife and children,
also all taxes and insurance (fire and storm) on said premises
now due or maturing at any time in the future, said improvements
on said premises to be at all times insured against loss by fire
or storm.

That said J. H. Manery will also pay for what medical,
dental or optical services that may be necessary for said
children, all school fees, books and equipment necessary for
their proper schooling. 1

UNA MAE MANERY,
Complainant

E Q U I T Y

vs

IN THE CIRCUIT COURT OF

JAMES HERBERT MANERY,
Respondent

BALDWIN COUNTY, ALABAMA.

DEPOSITIONS OF UNA MAE MANERY AND
LILLIAN T. NEWELL, WITNESSES FOR
COMPLAINANT

The above named witnesses, appeared before me at the time and place hereinafter stated and upon examination by counsel for Complainant, after being sworn, testified as follows:

UNA MAE MANERY

I am the Complainant in this case, over the age of twenty-one years, and was born in this County, which has been my home all of my life. On December 24, 1939, I was married to James Herbert Manery, the Defendant here, and who also has been a resident of Alabama since his childhood and is forty-four years of age. My husband and I have lived together as man and wife up to the 18th day of October, 1949, when after a rather unsettled married life, he abandoned me and we have lived separate and apart ever since. To this marriage was born two daughters, Betty Frances, now ten years of age, and Shirley Jean, now five years of age, who live with me. Since our separation, my husband has paid for the support of the children more or less regularly, but not for me. His treatment of me has been very difficult to endure, for while he has never been physically cruel, his manner has been one of sarcastic coldness, treating me at all times as though I were an inferior. I would have been willing to go back to him had he shown any disposition toward treating me as a wife should be treated, but he has shown no inclination to do this and I am content to stay away from him as he seems to wish. About six months after our separation, we had an agreement drawn by the late H. A. Burns on May 3, 1950, which was signed by us both, and I attach my copy of this as Exhibit A. Since my husband left me in October, 1949, there has been no resumption of marital relations between us, and we live in separate homes, though he comes to see the children almost daily. I support myself by my own labor and have done so since some time before the separation. My husband is a cabinet maker and does good work, but has no business ability and is constantly hard up and in debt, and this seems to affect his disposition and attitude toward me, for, to use his own expression, he is "perpetually mad at me", and certainly shows it. I have no desire to return to him even should he want me to do so.

Una Mae Manery

LILLIAN T. NEWELL

I am a resident of the City of Fairhope and have been acquainted with Mr. and Mrs. Manery for the past two years. Soon after I met them I could see that relations between this couple were not happy and later on I learned that they had parted, something over a year ago, and Mrs.

Manery was living in their home on Greeno Boulevard with the two little girls. Mr. Manery lived in another apartment not far away. As far as I could see there was no open hostility between them as he would come to see the children practically daily and I understood from her that he was paying for their support. This separation has lasted to the best of my knowledge since the late fall of 1949 and still continues. Had they gone back to live together, my relations with the family are such that I would have known it. I do not know of my own knowledge what arrangements he makes about supporting the children.

Lillian T. Newell

CERTIFICATE

I, Helen P. Baugh, acting as commissioner by appointment, hereby certify that in the case of UNA MAE MANERY vs JAMES HERBERT MANERY, pending on the Equity side of the Circuit Court of Baldwin County, I caused Una Mae Manery and Lillian T. Newell, witnesses for Complainant, to appear before me at my office in the Bank Building, Fairhope, Alabama, and where, after being duly sworn, upon examination by the solicitors for the Complainant, they testified as is above written, and their testimony, after being reduced to writing, was read over and signed by them.

I further certify that I am neither of counsel nor of kin to either party to the cause or in anywise interested in the result thereof.

IN WITNESS WHEREOF, I hereto set my hand and seal as Commissioner, this the 12th day of January, 1951.

Helen P. Baugh
Commissioner.

Handwritten notes and signatures in the left margin.

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY,
Respondent

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DEPOSITIONS OF UNA MAE
MANERY AND LILLIAN T.
NEWELL, WITNESSES FOR
COMPLAINANT

o o o o o o o o o o o o o o o

FILED
JAN 15 1951

ALICE J. DUCK, Register

*Commissioner's fee \$3.00
Paid by Complainant.*

UNA MAE MANERY,

Complainant

-vs-

JAMES HERBERT MANERY,

Defendant

NO. 2577

E Q U I T Y

CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

DIVORCE DECREE

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 Complainant and Defendant be and the same are hereby dissolved and the said UNA MAE MANERY is forever divorced from JAMES HERBERT MANERY for and on account of abandonment. It is, therefore,

ORDERED, ADJUDGED and DECREED that Complainant have the full care and custody of BETTY FRANCES MANERY and SHIRLEY JEAN MANERY, children of said marriage, and shall pay for the maintenance and support of said children in accordance with the terms of the separation agreement signed by the parties on 3 May 1950 as set out in the Bill of Complaint, as follows: "That J. H. Manery will pay to Una Mae Manery for the support and maintenance of said children the sum of \$12.00 per week, payable on each Saturday. He will also pay for the light and power, water and sewerage, fuel oil and such other utilities as are now used in the home occupied by the wife and children, also all taxes and insurance (fire and storm) on said premises now due or maturing at any time in the future, said improvements on said premises to be at all times insured against loss by fire or store. That said J. H. Manery will also pay for what medical, dental or optical services that may be necessary for said children, all school fees, books and equipment necessary for their proper schooling." It is further

ORDERED that Defendant pay to Complainant, in lieu of alimony, the sum of \$50.00 toward her Counsel fee in this cause and shall, also, pay the costs of this cause for which execution may issue.

It is further ORDERED, ADJUDGED and DECREED that the Defendant shall have the right to visit the children of said marriage during any reasonable daylight hours.

This Court reserves control of this cause for such further orders as may from time to time seem to the best interest of all parties concerned.. 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 and Defendant be, and they are hereby permitted to again contract marriage upon the payment of costs of this suit.

Done at Bay Minette, Alabama, this the 15th day of January, Nineteen Hundred Fifty-one.

Telfair J. Madoleberry, Jr.
JUDGE.

I, ALICE J. DUCK, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in the above stated cause, which said decree is on file and enrolled in my office.

Witness my hand and seal this the day of January, 1951.

Register of the Circuit Court, In Equity.

RECORDED

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m

NO. 2577

E Q U I T Y

CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

UNA MAE MANERY,

Complainant

-VS-

JAMES HERBERT MANERY,

Defendant

DIVORCE DECREE

FILED

JAN 25 1951

ALICE J. DUCK, Register

2577

OLIVE NELSON, et al.,	Ø	IN THE CIRCUIT COURT OF
Complainants	Ø	BALDWIN COUNTY, ALABAMA
vs.	Ø	
U. S. CONSERVATION COMPANY,	Ø	IN EQUITY NO. 2020
a corporation, et al.,		
Respondents	Ø	

This cause coming on to be heard upon the motion of respondents Gillard C. Strong, Floyd T. McConnell and John T. Gray, to test the sufficiency of their special plea, as amended, to the bill of complaint, as last amended, filed against them in this cause, the Court, after considering and understanding the matter, is of the opinion that the facts alleged in said special plea, as amended, constitute a bar to the maintenance of this suit;

WHEREFORE, the premises considered, it is ORDERED, ADJUDGED AND DECREED by the Court that the said special plea, as amended, is sufficient, and that upon proper proof of the facts therein alleged, all orders and decrees heretofore made or entered in this cause against the respondent U. S. Conservation Company, a corporation, shall be expunged from the record and the bill of complaint as last amended shall be dismissed as to all respondents.

Done at Bay Minette, Alabama, this ____ day of May, 1951.

Judge

Sept 17/51

Dear Mrs. Duck,

Maney vs Maney. #2577. Equity
At our hearing last Thursday, the Judge denied the
petition to set aside the decree of divorce and allowed
the increase of counsel fees prayed in the bill in the
event of contest and told me to write the decree
denying rehearing but to allow added time for appeal.

I did not think this time could be extended but
was not certain and said nothing but the next day
had time to look up the matter and found Section
789 of Title 7 which absolutely limits the time of appeal
to sixty days to fit in with the marrying again clause
in the decree. I therefore rewrote the order and you have
it with the other order increasing counsel fees. Please
get these into the Judge's hands with my letter.

I am expecting to be in the Probate Court in the
afternoon of tomorrow and will see you.

Both secretaries are out this afternoon, hence this
form of letter.

Sincerely,
E. G. R.

Copies of both decrees are enclosed to be sent to Effusion.

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY,
Defendant

EQUITY NO. 2577

CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

This cause coming on to be heard before me this day upon the motion of Complainant for an increase of allowance for counsel fees in lieu of alimony from fifty dollars as ordered by the decree of divorce rendered January 15, 1951, in the absence of contest, and it appearing to the Court that since said decree was rendered the Defendant has sought to set aside said decree and to file a contest of the bill, and failing an order setting aside said decree, has filed motion of an appeal to the Supreme Court and because of the added litigation entailed, the allowance of a larger counsel fee would be proper.

IT IS THEREFORE ORDERED AND DECREED, that the decree of January 15th 1951 heretofore rendered be and same now is hereby amended to read that Defendant, in lieu of alimony, pay to Complainant not later than Thursday, May 31, 1951, the sum of One Hundred Dollars toward her counsel fees in this cause.

Ordered, adjudged and decreed this the 28th day of May, 1951.

Telfair J. Maslowski, Jr.
Judge

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY
Defendant

EQUITY NO. 2577
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

This cause coming on to be heard before me this day upon the motion of Complainant for an increase of allowance for counsel fees in lieu of alimony from fifty dollars as ordered by the decree of divorce rendered January 15, 1951 in the absence of contest and it appearing to the Court that since said decree was rendered the Defendant has sought to set aside said decree and to file a contest of the bill, and failing an order setting aside said decree, to file an appeal to the Supreme Court and has refused to vacate the premises owned by Complainant individually, which she has contracted to sell so that in this event the allowance of a larger counsel fee would be proper.

IT IS THEREFORE ORDERED AND DECREED, that the decree of January 15, 1951 heretofore rendered be and same now is hereby amended to read that Defendant, in lieu of alimony, pay to Complainant forthwith the sum of One Hundred Fifty Dollars toward her counsel fees in this cause.

Ordered, adjudged and decreed this the ^{14th} day of ^{May} ~~April~~, 1951.

Jeffrey G. Mashburn, Jr.
Judge

2577 Equity

UNA MAE MANERY,
Complainant,
versus
JAMES HERBERT MANERY,
Defendant.

ORDER AMENDING DECREE
AS TO COUNSEL FEES.

COURT, VICTORIA

CLERK OF COURT

1975, JAN 10

VERNA J. JENSEN
JAN 10 1975

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CLERK OF COURT
JAN 10 1975

Filed
5-14-57
A. J. J. J. J.
Register

Uma Mae Manery
Complainant

vs
James Herbert Manery
Defendant

By the Court to set aside ~~that~~ ^{the} order made April 12, 1915, whereby the defendant was granted 30 days additional time in which to appeal. Section 989 of Article 7 of the Code limiting time for appeal in divorce cases to sixty days from the date of decree, January 15th 1915.

Rickardly + Rickardly
Attorneys for
Complainant

Equity - N^o 2577

Maney.

vs

Maney.

—
Motion to set aside order
of Apr 12, 1951 allowing
additional time for appeal.

FILED

MAY 16 1951

ALICE J. DUCK, Register

Rickaby & Rickaby

UNA MAE MANERY
Complainant
vs
JAMES HERBERT MANERY
Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
No. 2577

Now comes the respondent in the above styled cause and shows to the court that he desires to appeal to the Supreme Court of Alabama from the decreemmade and entered in this cause on the fifteenth day of January, 1951, wherein and whereby the court granted a decree of divorce to the complainant. Respondent desires to appeal and to supersede said judgement of decree and moves the court for an order fixxing the amount of the bond to be filed in this cause to supersede said decree.

Arthur C. Epperson
Attorney for James Herbert Manery

The respondent having applied to this court for an order fixing the amount of the appeal bond in this cause to supersede and suspend the decree of this court of the fifteenth day of January, 1951 wherein and whereby the court granted a decree of divorce to the complainant, it is

ORDERED, ADJUDGED and DECREED that upon the filing of an appeal bond with the register, with good and sufficient sureties, in the sum of \$600, payable to the register and to be approved by her, and conditioned that if respondent fail in the appeal he will pay such judgment as the appellate court may render in the premises, and all such costs and damages as any party may sustain by reason of the wrongful appeal and suspension of the decree, the decree shall be and the same is, upon the filing of said bond, hereby suspended pending said appeal; and the complainant excepts.

The register will enter this order on the minutes of the court.

Ordered this the ____ day of May, 1951.

Judge of the Circuit Court

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

No. 2577

UNA MAE MANERY
Complainant

vs

JAMES HERBERT MANERY
Respondent

Application for and DECREE
allowing supersedeas and
fixing bond

FILED
MAY 7 1951

ALICE J. DUCK, Register

ARTHUR C. EPPERSON
ATTORNEY AT LAW
FOLEY, ALABAMA

UNA MAE MANERY
Complainant

VS

JAMES HERBERT MANERY
Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

No. 2577

Now comes the respondent in the above styled cause and shows to the court that he desires to appeal to the Supreme Court of Alabama from the decree made and entered in this cause on the fifteenth day of January, 1951, wherein and whereby the court granted a decree of divorce to the complainant. Respondent desires to appeal and to supersede said judgement of decree and moves the court for an order fixing the amount of the bond to be filed in this cause to supersede said decree.

Arthur C. Epperson
Attorney for James Herbert Manery

The respondent having applied to this court for an order fixing the amount of the appeal bond in this cause to supersede and suspend the decree of this court of the fifteenth day of January, 1951 wherein and whereby the court granted a decree of divorce to the complainant, it is ORDERED, ADJUDGED and DECREED that upon the filing of an appeal bond with the register, with good and sufficient sureties, in the sum of \$1000.00 payable to the register and to be approved by the court, and conditioned that if respondent fail in the appeal he will pay such judgment as the appellate court may render in the premises, and all such costs and damages as any party may sustain by reason of the wrongful appeal and suspension of the decree, the decree shall be and the same is, upon the filing of said bond, hereby suspended pending said appeal; and the complainant excepts.

The register will enter this order on the minutes of the court.

Ordered this the ____ day of May, 1951.

Judge of the Circuit Court

UNA MAE MANERY,
Complainant

No. 2577

E Q U I T Y

vs

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

JAMES HERBERT MANERY,
Defendant

Comes UNA MAE LOWELL, formerly MANERY, Complainant,
and moves the Court to dismiss the appeal to the Supreme
Court filed in this case, upon the ground that same was
not filed within sixty days of the decree as provided by
Section 789, Title 7 of the Code of 1940.

Rickarby & Rickarby
RICKARBY & RICKARBY,
Solicitors for Complainant

Maney

Maney

Motion to dismiss appeal.

FILED
MAY 16 1951

ALICE J. DUCK, Registrar

Richardby & Richardby

CLERK OF COURT

CLERK OF COURT

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DEPARTMENT OF JUSTICE

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DEPARTMENT OF JUSTICE

UNA MAE MANERY,
Complainant

No. 2577

vs

E Q U I T Y

CIRCUIT COURT OF BALDWIN

JAMES HERBERT MANERY,
Defendant

COUNTY, ALABAMA.

Comes UNA MAE LOWELL, formerly Manery, and shows to the Court that she is the owner, and up to the second week in March, 1951, in occupancy as a home, of a lot of land with a small dwelling thereon on the West side of Greeno Boulevard in the City of Fairhope. That after her divorce on January 15, 1951, she and her two children continued to live in said house, separate and apart from Defendant, who lived in a trailer on the rear of the lot;

That in the early part of March last, she and her children moved from said premises to a rented dwelling in Fairhope to enable her to get transportation daily to Brookley Field where she has secured employment; that she has secured a solvent purchaser for said premises, who has made a material deposit of earnest money, and the Defendant has refused to allow the purchaser to take possession, and for this reason Complainant is unable to perfect her sale and is in danger of having same repudiated and the demand for the earnest money made.

WHEREFORE, Complainant moves the Court for an order requiring JAMES HERBERT MANERY, the Defendant, to vacate and surrender forthwith said premises to Complainant, the legal owner.

Una Mae Lowell

RICKARBY & RICKARBY
Attorneys for Complainant.

STATE OF ALABAMA:

COUNTY OF BALDWIN:

Before me, the undersigned Notary, personally appeared this day, ~~UNA MAE LOWELL, formerly Manery~~, who, being sworn, says that ~~the above named Petitioner is temporarily out of the County in pursuance of her employment, but that~~ she has personal knowledge of the facts set out in the petition and knows the same to be true.

Elliott S. Rickarby

Subscribed and sworn to before me on May 14, 1951.

Elliott S. Rickarby
Notary Public, Baldwin County, Alabama.

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Figure 6

[The page contains extremely faint, illegible vertical markings or bleed-through from the reverse side.]

$$\begin{aligned} \mathcal{A} &= \{ \mathcal{A}_1, \mathcal{A}_2, \mathcal{A}_3, \mathcal{A}_4, \mathcal{A}_5, \mathcal{A}_6, \mathcal{A}_7, \mathcal{A}_8, \mathcal{A}_9, \mathcal{A}_{10}, \mathcal{A}_{11}, \mathcal{A}_{12}, \mathcal{A}_{13}, \mathcal{A}_{14}, \mathcal{A}_{15}, \mathcal{A}_{16}, \mathcal{A}_{17}, \mathcal{A}_{18}, \mathcal{A}_{19}, \mathcal{A}_{20}, \mathcal{A}_{21}, \mathcal{A}_{22}, \mathcal{A}_{23}, \mathcal{A}_{24}, \mathcal{A}_{25}, \mathcal{A}_{26}, \mathcal{A}_{27}, \mathcal{A}_{28}, \mathcal{A}_{29}, \mathcal{A}_{30}, \mathcal{A}_{31}, \mathcal{A}_{32}, \mathcal{A}_{33}, \mathcal{A}_{34}, \mathcal{A}_{35}, \mathcal{A}_{36}, \mathcal{A}_{37}, \mathcal{A}_{38}, \mathcal{A}_{39}, \mathcal{A}_{40}, \mathcal{A}_{41}, \mathcal{A}_{42}, \mathcal{A}_{43}, \mathcal{A}_{44}, \mathcal{A}_{45}, \mathcal{A}_{46}, \mathcal{A}_{47}, \mathcal{A}_{48}, \mathcal{A}_{49}, \mathcal{A}_{50}, \mathcal{A}_{51}, \mathcal{A}_{52}, \mathcal{A}_{53}, \mathcal{A}_{54}, \mathcal{A}_{55}, \mathcal{A}_{56}, \mathcal{A}_{57}, \mathcal{A}_{58}, \mathcal{A}_{59}, \mathcal{A}_{60}, \mathcal{A}_{61}, \mathcal{A}_{62}, \mathcal{A}_{63}, \mathcal{A}_{64}, \mathcal{A}_{65}, \mathcal{A}_{66}, \mathcal{A}_{67}, \mathcal{A}_{68}, \mathcal{A}_{69}, \mathcal{A}_{70}, \mathcal{A}_{71}, \mathcal{A}_{72}, \mathcal{A}_{73}, \mathcal{A}_{74}, \mathcal{A}_{75}, \mathcal{A}_{76}, \mathcal{A}_{77}, \mathcal{A}_{78}, \mathcal{A}_{79}, \mathcal{A}_{80}, \mathcal{A}_{81}, \mathcal{A}_{82}, \mathcal{A}_{83}, \mathcal{A}_{84}, \mathcal{A}_{85}, \mathcal{A}_{86}, \mathcal{A}_{87}, \mathcal{A}_{88}, \mathcal{A}_{89}, \mathcal{A}_{90}, \mathcal{A}_{91}, \mathcal{A}_{92}, \mathcal{A}_{93}, \mathcal{A}_{94}, \mathcal{A}_{95}, \mathcal{A}_{96}, \mathcal{A}_{97}, \mathcal{A}_{98}, \mathcal{A}_{99}, \mathcal{A}_{100} \} \end{aligned}$$
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Figure 1. Schematic representation of the experimental design. The subjects were divided into two groups: the control group (n = 10) and the experimental group (n = 10). The control group received a standard diet (SD) and the experimental group received a high-fat diet (HFD). The subjects were divided into two groups: the control group (n = 10) and the experimental group (n = 10). The control group received a standard diet (SD) and the experimental group received a high-fat diet (HFD). The subjects were divided into two groups: the control group (n = 10) and the experimental group (n = 10). The control group received a standard diet (SD) and the experimental group received a high-fat diet (HFD).

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Figure 1. The four different types of the *Staphylococcus aureus* strains used in this study. The strains were: (a) *Staphylococcus aureus* ATCC 29222, (b) *Staphylococcus aureus* ATCC 29222 + β -lactamase, (c) *Staphylococcus aureus* ATCC 29222 + β -lactamase + α -hemolysin, and (d) *Staphylococcus aureus* ATCC 29222 + β -lactamase + α -hemolysin + δ -hemolysin.

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THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1951-52

1 Div. 465

James Hubert Manery

v.

Una Mae Manery

Appeal from Baldwin Circuit Court, in Equity

LAWSON, JUSTICE:

Una Mae Manery filed her bill in the circuit court of Baldwin County, in equity, against her husband, James Hubert Manery, seeking absolute divorce, custody of the children, support and maintenance for the children, and counsel fees.

Decree pro confesso was entered on January 12, 1951, and final decree rendered on January 15, 1951. The final decree awarded complainant a divorce and the custody of the children. Respondent is required to pay to complainant the sum of \$12 per week

for the support and maintenance of the children and to pay certain expenses incident to their welfare not necessary to enumerate here. The final decree contains the following provision: "This Court reserves control of this cause for such further orders as may from time to time seem to the best interest of all parties concerned." On March 13, 1951, nearly two months after the final decree was rendered, respondent filed what is termed a motion for rehearing. The prayer of the motion is as follows:

"Wherefore your petitioner prays that your Honor will grant a rehearing of said cause at such time as may be convenient to be fixed by the Court; that upon such rehearing the decree complained of may be vacated; that if a rehearing is denied your petitioner in this cause, that additional time be granted your petitioner to appeal the said original adverse decree in this cause or which your petitioner is justly complaining."

On April 12, 1951, the trial court entered the following

decree:

"This cause coming on to be heard this day upon the petition of defendant, James Herbert Manery, that the decree of divorce in this cause rendered January 15, 1951 be vacated and a rehearing of the cause ordered, and it appearing to the Court that said petition falls to show proper grounds whereby the prayer of the petition should be granted; and the same is hereby, denied."

"It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the prayer of said petition to vacate the decree of divorce be, and the same is hereby, denied."

Appeal from the decree rendered on January 15, 1951, was taken on May 7, 1951.

Submission here was on motion of appellee to dismiss the appeal on the ground that it was not taken within the time provided by law.

The time for taking an appeal from decree granting divorce is within sixty days from the date upon which decree of divorce was rendered. - § 789, Title 7, Code 1940; Moor v. Moor, 211 Ala. 56, 99 So. 316.

The time in which an appeal may be taken is suspended pending a ruling on an application for rehearing duly filed under Equity Rule 62. - Gavin v. Hughes, 249 Ala. 136, 30 So. 2d 245.

But Equity Rule 62 provides that "a party desiring a rehearing of a cause after decree must file application for rehearing with the register and present same to the judge who rendered the decree within thirty days from the date of said decree." (Emphasis supplied) In Winston et al. v. Winston et al., 253 Ala. 131, 43 So. 2d 130, application or motion for rehearing was filed more than thirty days after decree was rendered. Appellant took the position that the filing of this application or motion interrupted the running of the statute fixing the limitations within which the appeal could be taken. We did not agree. We held that the motion or application for rehearing was ineffectual to interrupt the running of the statute, since it was not filed within thirty days from the date of the decree appealed from.

Appellant's argument to the effect that counsel for appellee has waived the delay in filing the application for rehearing is unavailing. Reliance is had upon the case of Van Schick v. Goodwyn et al., 230 Ala. 687, 163 So. 327, where it was said:

"It is also settled that while the circuit court, as a court of equity, is always open for the transaction of business before it, nevertheless, for the purpose of granting rehearings, section 6635 and 6670 of the code establish in every cause a new term of the chancery court of 30 days' duration, beginning on the day of each final decree, and after the expiration of 30 days, the court is without power to grant such rehearing, unless opposing counsel waive the delay, or unless jurisdiction is retained by the decree. Gibson v. Farmers' Bank of Luverne, 218 Ala. 554, 119 So. 664; Ex parte Howard (Howard v. Kildgeway et al.), 225 Ala. 106, 142 So. 403."

Even if it be assumed that counsel can waive the requirement that application for rehearing must be filed within thirty days, there is nothing in this record showing any waiver on part of counsel for appellee. The record must affirmatively show

wavier. In Gibson v. Farmers' Bank of Luverne, 218 Ala. 554, 555, 109 So. 664, it was said:

"If we should treat the memorandum granting the motion to dismiss as a formal order to that effect, the motion to reinstate, being acted upon on March 6, 1928, more than 30 days thereafter, the record not showing that appellee participated in the hearing, or otherwise waived the discontinuance of the motion, the order of the court denying the motion could not be reviewed, even if it were such an order as would otherwise support an appeal."

The inclusion in the decree of the provision heretofore set out to the effect that the court reserves control of the cause for further order as may from time to time seem to the best interest of all parties concerned, obviously had no reference to that part of the decree wherein complainant was divorced from respondent. Such provision was no doubt incorporated into the decree under the belief that it was necessary in order to enable the court to modify the terms of the decree as to custody of the children and their support and maintenance to meet changed conditions. Of course, the court has such power without expressly reserving it. - Hardy v. Hardy, 250 Ala. 297, 34 So. 24 212.

5.

The trial court was without power to extend the time for taking the appeal from the decree of January 15, 1951.

Since the appeal was not taken within sixty days from the date on which the decree of divorce was rendered, and the motion for rehearing was inefficacious to suspend the running of the statute fixing the limitations within which the appeal could be taken, the motion of appellee to dismiss the appeal must be granted and the appeal dismissed.

Appeal dismissed.

Livingston, C. J., Brown and Stakely, JJ., concur.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1 Div., No. 465,

James Hubert Manery

, Appellant,

vs.

Una Mae Manery

, Appellee,

From

Baldwin
in Equity

Circuit Court.

The State of Alabama,
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to 5 inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 23rd day of

November, 19 51.

J. Render Thomas
Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 1951-52

1 Div., No. 465

James Hubert Manery

Appellant,

vs.

Una Mae Manery

Appellee.

From Baldwin Circuit Court,
in Equity

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1950

November 23, 1951

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1951-52.

1 Div. 465

James Hubert Manery

v.

Una Mae Manery (Lowell),

Baldwin Circuit Court,
In Equity.
No. 2577.

Come the parties by attorneys, and the motion of the appellee to dismiss the appeal being argued and submitted and duly examined and understood by the Court,

IT IS CONSIDERED AND ORDERED that appellee's motion to dismiss the appeal be and the same is hereby granted, and that the appeal be and the same is hereby dismissed.

IT IS FURTHER CONSIDERED AND ORDERED that the appellant, James Hubert Manery, and Stephen A. Riggs and Arthur C. Epperson, sureties on the appeal bond, pay the costs of appeal of this Court and of the Circuit Court, for which costs let execution issue accordingly.

STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 465

James Hubert Manery, Appellant,

v.

Una Mae Manery (Lowell), Appellee,

From Baldwin Circuit Court.
In Equity
No. 2577

The State of Alabama,
City and County of Montgomery. }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages ~~numbered from one to~~ contain a full, true, and correct copy of the Order and Decree of the Supreme Court granting appellee's motion to dismiss the appeal and dismissing the appeal, made by said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme

Court of Alabama, this the 23rd day of

November 1951.

J. Render Thomas

Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

1st Div., No. 465

James Hubert Manery

Appellant,

v.

Una Mae Manery (Lowell)

Appellee.

From Baldwin Circuit Court.
In Equity
No. 2577
Certified Copy of

Order and Decree Dismissing
the Appeal-Nov. 23, 1951.

BROWN PRINTING CO., MONTGOMERY, ALA. 1948

Filed 11-24-51
Receiv. Clerk
Register.

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY,
Defendant

EQUITY NO. 2577

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

This cause coming on to be heard before me this day upon the motion of Complainant for an increase of allowance for counsel fees in lieu of alimony from fifty dollars as ordered by the decree of divorce rendered January 15, 1951, in the absence of contest, and it appearing to the Court that since said decree was rendered the Defendant has sought to set aside said decree and to file a contest of the bill, and failing an order setting aside said decree, has filed motion of an appeal to the Supreme Court and because of the added litigation entailed, the allowance of a larger counsel fee would be proper.

IT IS THEREFORE ORDERED AND DECREED, that the decree of January 15th 1951 heretofore rendered be and same now is hereby amended to read that Defendant, in lieu of alimony, pay to Complainant not later than Tuesday, May 31, 1951, the sum of One Hundred Dollars toward her counsel fees in this cause.

Ordered, adjudged and decreed this the 28th day of May, 1951.

Judge

ALLOMARE FOR COMPLAINANT
BICKABA & BICKABA

Handwritten signature/initials on the right margin.

Judge

Ordered, adjudged and decreed that the 20th day of May, 1921, counsel fees in this case:

then Tuesday, May 31, 1921, the sum of One Hundred Dollars toward her fees that Defendant, in lieu of alimony, pay to Complainant not later than 12th 1921, hereafter rendered so and same now is hereby amended to

It is THEREFORE ORDERED AND DECREED, that the decree of January

being perfected.

said litigation entered, the allowance of a larger counsel fee, tried motion of an appeal, to the Court and because of the of the bill, and failing to Defendant has sought to set it appearing to the Court. ORDER INCREASING COUNSEL FEES divorce rendered January 1921, in lieu of alimony from said motion of Complainant for an increase of allowance for counsel fees this cause coming on to be heard before me this day upon the

JAMES HERBERT MANERY vs. UMA MAE MANERY Complainant Defendant

Defendant
JAMES HERBERT MANERY

as

Complainant
UMA MAE MANERY

CIRCUIT COURT OF BRIDGEMAN
BRIDGEMAN NO. 5223

4-28571 - 89

RICKARBY & RICKARBY
ATTORNEYS FOR COMPLAINANT

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

EQUITY SIDE

TO

JAMES HERBERT MANERY

You are hereby notified to appear and plead, answer or demur within thirty days of the receipt hereof to the Bill of Complaint filed in this Court at Bay Minette, Alabama, against you as Defendant by UNA MAE MANERY as Complainant.

WITNESS my hand this the

day of November, 1950.

Register, Circuit Court

TO THE

HONORABLE TELFAIR J. MASBURN, JR., JUDGE OF THE CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA: IN EQUITY:

Comes UNA MAE MANERY, and by this her Bill of Complaint, presented against JAMES HERBERT MANERY, respectfully shows:

FIRST: That Complainant and Defendant are both over the age of twenty-one years; that both are now and have been for more than five years prior to the filing of this Bill bona fide residents of the State of Alabama.

SECOND: That Complainant and Defendant were married at Loxley, Alabama, on December 24, 1939; but have not lived together since October 18, 1949.

THIRD: That Defendant voluntarily abandoned Complainant on October 18, 1949 and since that date has lived separate and apart from Complainant with no resumption of marital relations since said separation.

FOURTH: That to this marriage were born two daughters, Betty Frances, ten years of age, and Shirley Jean, now five years of age. These children now live with Complainant.

FIFTH: Complainant further avers that on May 3, 1950, she and Defendant entered into a written agreement, a part of which reads as follows:

"That J. H. Manery will pay to Una Mae Manery, for the support and maintenance of said children the sum of \$12.00 per week, payable on each Saturday. He will also pay for the light and power, water and sewerage, fuel oil and such other utilities as are now used in the home occupied by the wife and children, also all taxes and insurance (fire and storm) on said premises now due or maturing at any time in the future, said improvements on said premises to be at all times insured against loss by fire or storm.

That said J. H. Manery will also pay for what medical, dental or optical services that may be necessary for said children, all school fees, books and equipment necessary for their proper schooling."

THE PREMISES CONSIDERED, Complainant prays that JAMES HERBERT MANERY be made party defendant to this cause and by proper process required to answer this Bill within the time prescribed by Law.

Complainant further prays that upon hearing of this cause, a decree be rendered forever divorcing her from said JAMES HERBERT MANERY; granting her the custody of the two children of the marriage, and an allowance for the support and maintenance of said children as set out in Paragraph Five of this Bill; the sum of \$50.00 toward expenses of Complainant's solicitors or \$150.00, if actively contested, in this cause, and such other, further or different relief as to equity may seem meet.

Richarby & Richarby

Solicitors for Complainant.

collected for compliance.

Richard D. Dwyer

County Jail to be collected and sent to the

Prisoner

Prisoner's collection, in the amount of \$150.00, if actively contested, \$100.00.

Prisoner's collection, in the amount of \$150.00, if actively contested, \$100.00.

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Prisoner's collection, in the amount of \$150.00, if actively contested, \$100.00.

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UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY,
Defendant

EQUITY NO. 2577

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

This cause coming on to be heard this day upon the petition of Defendant James Herbert Manery that the decree of divorce in this cause rendered January 15, 1951 be vacated and a rehearing of the cause ordered, and it appearing to the Court that said petition fails to show grounds whereupon the prayer of the petition as to vacation of said decree should be allowed:

It is therefore ORDERED, ADJUDGED and DECREED that the prayer of said petition to vacate the decree of divorce, be, and the same is hereby denied.

Ordered, adjudged and decreed this the 12th day of April, 1951.

Judge

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

2577

UNA MAE MANERY
Complainant
vs.
JAMES HERBERT MANERY
Respondent

TO THE HONORABLE TELAIR J. MASHBURN JR., JUDGE OF THE CIRCUIT

COURT OF BALDWIN COUNTY, ALABAMA: IN EQUITY:

Now comes your petitioner, JAMES HERBERT MANERY, respondent in the

above styled cause, and applies for a rehearing of the decree and order

rendered in the above styled cause on the fifteenth day of January, 1951,

and as grounds for such application, your petitioner respectfully shows

unto your Honor the following:

ONE

That the Complainant did not sufficiently allege in the bill of

complaint grounds for a divorce.

TWO

That the evidence given in behalf of the Complainant is insufficient

to support any grounds of divorce.

THREE

That the alleged agreement between the parties was not properly before

the Court and therefore should not have been included and made a part of

the decree.

FOUR

That the respondent has a good and sufficient defense and as to the

parties is the only one entitled to a decree of divorce.

FIVE

That your petitioner is without fault in not presenting a defense

or contesting this cause in that he believed and with reason that he was

represented by competent counsel, who, your petitioner fully expected to

plead to the complaint within the time allowed by law in such cases and

protect the respondents interests.

SIX

That your petitioner has not been tardy or neglectful in attempting

to correct said decree but to the contrary has proceeded very diligently

since discovery of the adverse decree and failure of counsel to intercede

in your petitioners behalf.

Wherefore your petitioner prays that your Honor will grant a rehearing of said cause at such time as may be convenient to be fixed by the Court; that upon such rehearing the decree complained of may be vacated; that if a rehearing is denied your petitioner in this cause, that additional time be granted your petitioner to appeal the said original adverse decree in this cause of which your petitioner is justly complaining.

JAMES HERBERT MANERY

BY Arthur C. Epperson
His Attorney

STATE OF ALABAMA)
BALDWIN COUNTY)

Before me Alice J. Duck, Clerk of the Circuit Court, personally appeared Arthur C. Epperson, Attorney for the petitioner in the above cause, who is known to me and who being by me first duly sworn deposes and says that he is solicitor for the petitioner, that he is informed and believes and upon such information and belief says that the allegations and averments contained in the foregoing petition are true.

Arthur C. Epperson

Sworn to and subscribed before me on this thirteenth day of March, 1951.

Alice J. Duck
Clerk of the Circuit Court
Baldwin County, Ala.

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY,
Defendant

EQUITY NO. 2577

CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

This cause coming on to be heard this day upon the petition of Defendant James Herbert Manery that the decree of divorce in this cause rendered January 15, 1951 be vacated and a rehearing of the cause ordered, and it appearing to the Court that said petition fails to show grounds whereupon the prayer of the petition as to vacation of said decree should be allowed:

It is therefore ORDERED, ADJUDGED and DECREED that the prayer of said petition to vacate the decree of divorce, be, and the same is hereby denied.

Ordered, adjudged and decreed this the 12th day of April, 1951.

Judge

No.2577. Equity.

UNA MAE MANERY,
Complainant,

VS

JAMES HERBERT MANERY,
Defendant.

ORDER DENYING REHEARING.

[illegible]

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[illegible]

UNA MAE MANERY,
Complainant,
VS.
JAMES HERBERT MANERY,
Defendant.

EQUITY NO. 2577
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

This cause coming on to be heard this day upon the petition of Defendant, James Herbert Manery, that the decree of divorce in this cause rendered January 15, 1951 be vacated and a rehearing of the cause ordered, and it appearing to the Court that said petition fails to show proper grounds whereby the prayer of the petition should be granted:

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the prayer of said petition to vacate the decree of divorce be, and the same is hereby, denied.

It is further ordered, adjudged and decreed that the time in which Defendant may appeal to the Supreme Court from the decree of divorce in this cause be extended for thirty days from this date and that Defendant may appeal from said decree at any time prior to May 12, 1951 upon filing proper bond for said appeal satisfactory to the Register of this Court.

Done and ordered at Bay Minette, Alabama this 12th day of April, 1951.

Jelfair J. Masliburne, Jr.
Judge

UNA MAE MANERY
Complainant

VS

JAMES HERBERT MANERY
Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
No. 2577

Comes James Herbert Manery, the respondent, in the above styled cause and hereby appeals to the Supreme Court of Alabama from the final decree and judgement in the Circuit Court of Baldwin County, Alabama, in Equity rendered in the above styled cause on the fifteenth day of January, 1951.

Arthur L. Epperson
Attorney for James Herbert Manery

We hereby acknowledge ourselves securities for costs for the foregoing appeal.

J. H. Manery Principal
Stephen S. Riggs
Surety.

APPEAL WITH SECURITY FOR COSTS

FILED

MAY 2 1951

ALICE J. DUCK, Register

ARTHUR C. EPPERSON
ATTORNEY AT LAW
FOLEY, ALABAMA

UNA MAE MANERY)
Complainant)
VS)
JAMES HERBERT MANERY)
Respondent)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
NO. 2577

NOW comes James Herbert Manery and gives notice of appeal
from the decree of the Circuit Court of Baldwin County, Alabama
in Equity, rendered in said cause on the 15 day of January, 1951.

Dated this 8th day of May, 1951.

Arthur C. Eperson
Solicitor for Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

. NO 2577

UNA MAE MANERY

Complainant

VS

JAMES HERBERT MANERY

Respondent

NOTICE OF APPEAL

ARTHUR C. EPPERSON

ATTORNEY AT LAW
FOLEY, ALABAMA

UNA MAE MANERY

Complainant

VS.

JAMES HERBERT MANERY

Respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 2577

Now comes James Herbert Manery and gives notice of appeal from the decree of the Circuit Court of Baldwin County, Alabama, in Equity, rendered in said cause on the fifteenth day of January, 1951.

Dated this the twelfth day of April, 1951.

Arthur C. Epperson

Solicitor for James Herbert Manery

UNA MAE MANERY
Complainant

VS

JAMES HERBERT MANERY
Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
No. 2572.

Come James Herbert Manery, the respondent, in the above styled cause and hereby appeals to the Supreme Court of Alabama from the final decree and judgement in the Circuit Court of Baldwin County, Alabama, in Equity rendered in the above styled cause on the fifteenth day of January, 1951.

Arthur C. Epperson
Attorney for James Herbert Manery

We hereby acknowledge ourselves securities for costs for the foregoing appeal.

J. H. Manery
Principal

Stephen B. Briggs
Arthur C. Epperson
Surety.

approved

5-7-51

Aug. J. Baker
Register

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

NO 2577

UNA MAE MANERY

Complainant

VS

JAMES HERBERT MANERY

Respondent

APPEAL WITH SECURITY
FOR COST

*Filed 5-22-51
Arthur C. Epperson
Respondent*

ARTHUR C. EPPERSON
ATTORNEY AT LAW
FOLEY, ALABAMA

8 August 1951

Mrs. Alice J. Duck
Register
Bay Minette, Alabama

Dear Mrs. Duck:

MANERY VS. MANERY, NO. 2577: In looking over the copy of the transcript in this case sent me some weeks ago, I have just noted for the first time in the certificate of appeal on page 8, you have recited that the cause was tried and determined on the 12th day of April, when, as a matter of fact the decree of divorce from which the appeal was taken, was rendered January 15th--see Page 3.

There were several motions filed subsequent to this date, but only as to questions of alimony. At the bottom of Page 7 you will note that the notice of appeal was dated April 12th and recites the date of the decree correctly as does the security for costs at the top of Page 8.

Obviously your date on the third line of the certificate of appeal was a clerical error which should be corrected as if not, the mistake may be very damaging to our case.

Please also let me know the number and date of the receipt that you have from the Supreme Court for this transcript reciting that it has been recorded, as I want to file my motion. Doubtless if you write Mr. Thomas, the clerk, and call his attention to this and ask that he make the proper correction or that he send the transcript down for you to do so, the matter can be speedily adjusted.

Sincerely,

Elliott G. Rickarby
for
RICKARBY & RICKARBY

EGR:fc
3028

Div. No. _____

CERTIFICATE OF APPEAL. (Equity Cases.)

No. 2577

UNA MAE MANERY

Complainant.

vs.

JAMES HUBERT MANERY

Respondent.

I, ALICE J. DUCK

Register of the Circuit Court In Equity,

BALDWIN

County, Alabama, hereby certify that in the cause of

UNA MAE MANERY

Complainant,

vs.

JAMES HUBERT MANERY

Respondent,

which was tried and determined in this Court on the 15th day of January 19 51, in which there was a decree in favor of the Complainant.

On the 7th day of May 19 51, the Respondent

took an appeal to the Supreme Court of Alabama, to be holden of and for said State.

I further certify that JAMES HUBERT MANERY filed security for cost of appeal, to the SUPREME Court, on the 7th day of May 19 51, and that James Hubert Manery, Stephen A. Riggs, and Arthur Epperson are sureties on the appeal bond.

I further certify that notice of said appeal was on the 15th day of May, 19 51, served on Rickarby & Rickarby as attorney of record for said appellee.

Witness my hand and the seal of this Court, this the 15th day of May, 19 51

Alice J. Duck
Register of the Circuit Court In Equity of

Baldwin

County, Alabama.

The State of Alabama, }
Baldwin County.

No. _____ CIRCUIT COURT, IN EQUITY

UNA MAE MANERY

Complainant.....

vs.

JAMES HERBERT MANERY

Defendant.....

In this cause it appears to the _____ Register

that a Summons requiring the Defendant _____ JAMES HERBERT MANERY

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 _____ JAMES HERBERT MANERY

was served upon _____ him _____ by the Sheriff of _____ Baldwin _____ County, Alabama, on the
_____ 12th _____ day of _____ December _____ 19~~X~~50.

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 _____ Complainant's Solicitors

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 _____ JAMES HERBERT MANERY

Defendant..... aforesaid.

This _____ 12th _____ day of _____ January _____ 19~~X~~51

Register.

3
RECORDED

No. 2577 Page

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT IN EQUITY.

UNA MAE MANERY

Vs.

JAMES HERBERT MANERY

DECREE PRO CONFESSO ON
PERSONAL SERVICE.

Issued January 12 1951.

Archie J. French
Register.

UNA MAE MANERY

Complainant

VS.

JAMES HERBERT MANERY

Respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 2577

Now comes James Herbert Manery and gives notice of appeal from the decree of the Circuit Court of Baldwin County, Alabama, in Equity, rendered in said cause on the fifteenth day of January, 1931.

Dated this the twelfth day of April, 1931.

Arthur C. Epperson

Solicitor for James Herbert Manery

Circuit Court, In Equity.

Complainant-

vs.

Defendant.

Motion is hereby made for a Decree Pro Confesso against

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 11th day of January 1951

Solicitors

No. 2577 **RECORDED**

The State of Alabama,
BALDWIN COUNTY

CIRCUIT COURT, IN EQUITY

Vs.

Motion for Decree Pro Confesso on
Personal Service

Filed 1-11 19 51

W. J. Rucker
Register.

Recorded in _____ Record

Vol. _____ Page _____

Register.

Ursa Mae Manery
Complainant
 VS.

James Herbert Manery
Defendant.

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, see
see pro confesso and depositions of Ursa Mae Manery,
and Mrs Lillian F. Newell

Ries Early & Ries Early
Solicitors for Complainant.

and in behalf of Defendant in default.

7
m
No. 2577

RECORDED

THE STATE OF ALABAMA

Baldwin County

IN EQUITY

Circuit Court of Baldwin County

Una Mae Manery

Complainant

vs.

James Herbert Manery

Defendant

NOTE OF TESTIMONY

Filed in Open Court this 13th

day of January, 1945

W. J. French
Register.

Printed By The Baldwin Times

NO. 2577 EQUITY

UNA MAE MANERY
Complainant

CIRCUIT COURT OF BALDWIN
COUNTY ALABAMA
IN EQUITY

vs.

JAMES HERBERT MANERY
Defendant

Comes UNA MAE MANERY, complainant in this cause and shows to the court that the bill in this cause prayed for an allowance in lieu of alimony of fifty dollars towards fee for complainant's solicitors or one hundred and fifty dollars if said cause be actively contested. That as no contest was filed at the time of submission the lesser sum was allowed. That Defendant has now filed a petition for a rehearing of the cause and alleges therein that he has a valid ground of defense that his counsel failed to seasonably present and if a rehearing be granted said cause would be actively contested and a far larger sum be required by complainant for payment of her counsel. Complainant further shows that Defendant has made no payment of the counsel fees heretofore decreed and is therefore disobedient to and in contempt of the expressed mandate of this court and cannot now be heard until by obedience he has purged himself of such contempt.

Complainant now moves that his motion be heard prior to consideration of Defendant's petition aforesaid and that Defendant be required not only to pay the counsel fee decreed against him but the additional fee of one hundred dollars which is a reasonable charge for the active and serious litigation he has now instituted before said petition be heard.

Risley & Risley
Solicitors for Complainant

A copy of the foregoing was sent by mail, postage prepaid to Mr. Arthur C. Epperson, Solicitor for Complainant at Foley, Alabama, this the 14th day of March 1951.

Elliot L. Risley
Of Counsel for Complainant.

Handwritten signature

Handwritten signature

NO. 2577
E Q U I T Y

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

UNA MAE MANERY,

Complainant

-vs-

JAMES HUBERT MANERY,

Respondent

*Petition for attorney's
fee*

FILED

MAY 16 1957

WILLIAM D. DICKS, Register

Richarby & Richarby

Uma Grace Mamey
Complainant

James Herbert Mamey
Defendant

Comes the Complainant and moves
the Court to set aside that part of the
order made April 12, 1951 whereby the
defendant was granted 30 days within which
to appeal. Section 7 of the Code
relating to appeals. Section 7 of the Code
in above cases to sixty days, from the date
of decree January 12, 1951.

Respectfully + Personally
Submitted for
Complainant

15 app

21 a/c 26.

Equity No 2077

Manery
v

Manery.

Motion to set aside
or an granting additional
time to apply.

Filed 5-16-07

Augustine
Regatta

Richards & Richards

COMMISSION TO TAKE DEPOSITIONS

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT

TO:

William P. Burch

KNOW YE: that we, having full faith in your prudence and competency, have appointed you
Commissioner, and by these presents do authorize you, at such time and place as you may appoint,
to call before you and examine Wm. Mac Mannery, and

Lillian I. Newell

as witnesses in behalf of Complainant in a cause pending in our
Circuit Court in Baldwin County, of said State, wherein

Wm. Mac Mannery

_____, Complainant

and

James Herbert Mannery

_____, Respondent

on oath, to be by you administered, upon them

to take and certify the depositions of the witnesses and return the same to our Court, with all
convenient speed, under your hand.

Witness 12th day of January, 1951

Wm. J. Newell

Register.

Commissioner's Fee, \$ _____

Witness' Fees, \$ _____

5 -
No. _____

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Una Mae Mannery

Complainant—

vs.

James Herbert Mannery

Defendant—

COMMISSION TO TAKE DEPOSITION

COMMISSIONER

WITNESSES:

UNA MAE MANERY
Complainant,
VS.
JAMES HERBERT MANERY
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

NO.

DEMAND FOR ORAL EXAMINATION.

COMES the Complainant, by attorney, and represents to the Court as follows :

1. That the following named witnesses reside within one hundred miles from

Bay Minette....., in the County of Baldwin.....

Alabama, the place of trial of said cause, to-wit:.....

UNA MAE MANERY

ELLIS NEWELL

LILLIAN NEWELL

CATHERINE JOHNSON

2. That said complainant requires an oral examination of said witnesses before a commis-

sioner appointed by the Register of this Court.

Risley & Risley
Solicitor for Complainant.

NOTE:

Complainant suggests the name of HELEN P. BAUGH.....

as a suitable and competent person to act as commissioner upon the examination of said witnesses.

Risley & Risley
Solicitor for Complainant.

Ac 2577.

4

BT-2-47-100

DEMAND FOR ORAL EXAMINATION.

UNA MAE MANERY

Complainant,

Vs.

JAMES HERBERT MANERY

Respondent.

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

Filed this 12th day of January, 1945.

W. J. R. R. R.
Register.

RICKARBY & RICKARBY

LAW OFFICES

ELLIOTT G. RICKARBY

RICKARBY & RICKARBY
FAIRHOPE, ALABAMA

E. G. RICKARBY, JR.

27 November 1950

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

Dear Mrs. Duck:

MANERY VS MANERY: With this find Bill
of Complaint in duplicate, which please file.

Defendant resides on the West side of
Greeno Boulevard in Fairhope about two or three
doors south of Green's Nursery. *For the next week or ten*
days he will be working in the Riggs home, 18254 Fels Ave
in Fairhope.

Sincerely,

Elliott G. Rickarby

for
RICKARBY & RICKARBY

EGR:HB

Encs - 2

3028

*We enclose also an extra copy of the bill which can be
given opposing counsel if the matter is contested*

LAW OFFICES

ELLIOTT G. RICKARBY

RICKARBY & RICKARBY
FAIRHOPE, ALABAMA

E. G. RICKARBY, JR.

12 January 1951

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

Dear Mrs. Duck:

NO. 2577, MANERY -vs- MANERY: With this find
decrees with copies, note of evidence and check
in your favor for \$13.50. With these in hand
please attach ^{commissioner's} to the depositions and submit the
cause to the Judge for decree.

We expect Defendant to pay the costs, so in
figuring this include a \$3.00 commissioner's
fee for Mrs. Helen P. Baugh. *Send us the full
cost bill to present to him before he gets his copy
of decree.*

Sincerely,

Elliott G. Rickarby

for
RICKARBY & RICKARBY

EGR:M
Enc.
3028

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY
Defendant

EQUITY NO. 2577

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

This cause coming on to be heard before me this day upon the motion of Complainant for an increase of allowance for counsel fees in lieu of alimony from fifty dollars as ordered by the decree of divorce rendered January 15, 1951 in the absence of contest and it appearing to the Court that since said decree was rendered the Defendant has sought to set aside said decree and to file a contest of the bill, and failing an order setting aside said decree, to file an appeal to the Supreme Court and has refused to vacate the premises owned by Complainant individually, which she has contracted to sell so that in this event the allowance of a larger counsel fee would be proper.

IT IS THEREFORE ORDERED AND DECREED, that the decree of January 15, 1951 heretofore rendered be and same now is hereby amended to read that Defendant, in lieu of alimony, pay to Complainant forthwith the sum of One Hundred Fifty Dollars toward her counsel fees in this cause.

Ordered, adjudged and decreed this the 12th day of April, 1951.

Judge

THE STATE OF ALABAMA,

Baldwin

County.

CIRCUIT COURT, IN EQUITY.

To E. G. RICKABY,

GREETING:

WHEREAS, James Herbert Manery

has taken an appeal from the decree rendered by the Circuit Court of said County, in Equity, in the cause of
UNA MAE MANERY

against JAMES HERBERT MANERY

Now, you are therefore cited to appear at the NEXT Term, 1951, of the
Supreme Court of Alabama, to defend on said appeal, if you shall think proper so to do.

Witness, this 15th day of May 1951

Alice J. Benson

Register.

186
THE STATE OF ALABAMA,

Baldwin County.

CIRCUIT COURT, IN EQUITY.

UNA MEE MANERY

Complainant.....
vs.

JAMES HERBERT MANERY

Defendant.....

CITATION OF APPEAL.

SERVE THIS NOTICE UPON

E. R. RICKARBY

Solicitors of Record.

Received in office this.....

day of.....19.....

Sheriff.

Executed by serving a copy of the within
notice upon.....

on this.....day of

19.....

Sheriff.

We hereby accept
service this
15th May 1951

Rickarby & Rickarby

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

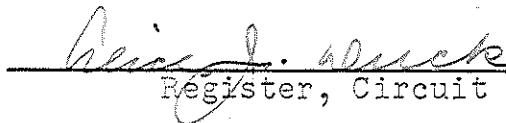
EQUITY SIDE

TO

JAMES HERBERT MANERY

You are hereby notified to appear and plead, answer or demur within thirty days of the receipt hereof to the Bill of Complaint filed in this Court at Bay Minette, Alabama, against you as Defendant by UNA MAE MANERY as Complainant.

WITNESS my hand this the 30th day of November, 1950.


Register, Circuit Court

TO THE

HONORABLE TELFAIR J. MASEBURN, JR., JUDGE OF THE CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA: IN EQUITY:

Comes UNA MAE MANERY, and by this her Bill of Complaint, presented against JAMES HERBERT MANERY, respectfully shows:

FIRST: That Complainant and Defendant are both over the age of twenty-one years; that both are now and have been for more than five years prior to the filing of this Bill bona fide residents of the State of Alabama.

SECOND: That Complainant and Defendant were married at Loxley, Alabama, on December 24, 1939; but have not lived together since October 18, 1949.

THIRD: That Defendant voluntarily abandoned Complainant on October 18, 1949 and since that date has lived separate and apart from Complainant with no resumption of marital relations since said separation.

FOURTH: That to this marriage were born two daughters, Betty Frances, ten years of age, and Shirley Jean, now five years of age. These children now live with Complainant.

FIFTH: Complainant further avers that on May 3, 1950, she and Defendant entered into a written agreement, a part of which reads as follows:

"That J. H. Manery will pay to Una Mae Manery, for the support and maintenance of said children the sum of \$12.00 per week, payable on each Saturday. He will also pay for the light and power, water and sewerage, fuel oil and such other utilities as are now used in the home occupied by the wife and children, also all taxes and insurance (fire and storm) on said premises now due or maturing at any time in the future, said improvements on said premises to be at all times insured against loss by fire or storm.

That said J. H. Manery will also pay for what medical, dental or optical services that may be necessary for said children, all school fees, books and equipment necessary for their proper schooling."

THE PREMISES CONSIDERED, Complainant prays that JAMES HERBERT MANERY be made party defendant to this cause and by proper process required to answer this Bill within the time prescribed by Law.

Complainant further prays that upon hearing of this cause, a decree be rendered forever divorcing her from said JAMES HERBERT MANERY; granting her the custody of the two children of the marriage, and an allowance for the support and maintenance of said children as set out in Paragraph Five of this Bill; the sum of \$50.00 toward expenses of Complainant's solicitors in this cause, or \$150.00, if actively contested, /and such other, further or different relief as to equity may seem meet.

Ries Cary & Ries Cary

Solicitors for Complainant.

no 2577

Received in Sheriff's Office
this 1 day of Dec 1950
TAYLOR WILKINS, Sheriff

RECORDED

UNA MAE MANERY,
Complainant

vs

JAMES HERBERT MANERY,
Defendant

BILL OF COMPLAINT

FILED

NOV. 30 1950

ALICE L. BUCK, Register

Rickaby & Rickaby

Executed 12-12-1950
by serving subpoena
James Herbert Manery
Lynne M. Manery
W. J. Manery
Sheriff