

3814

STATE OF ALABAMA

IN THE CIRCUIT COURT - IN EQUITY

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Gerald S. Mickle, Sr., and The Bank of Fairhope, a corporation, to appear and plead, answer or demur, within thirty days from the service hereof, to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama, In Equity, by A. W. Stapleton, Sr., and A. W. Stapleton, Jr., individually and doing business as Stapleton & Stapleton, General Contractors, as Complainants, against Gerald S. Mickle, Sr., and The Bank of Fairhope, a corporation, as Respondents.

Witness my hand this 19 day of June, 1956.

Archie J. Duck
Register

A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., individually
and doing business as STAPLETON &
STAPLETON, General Contractors,

Complainants,

vs.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE, a corporation,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY,
AND TO THE HONORABLE HUBERT M. HALL, THE JUDGE THEREOF:

Come now the Complainants, A. W. Stapleton, Sr., and A. W. Stapleton, Jr., individually and doing business as Stapleton & Stapleton, General Contractors, by their Solicitors, and respectfully represent and show unto your Honor and unto this Honorable Court as follows:

FIRST:

BOOK 023 PAGE 180

That the Complainants are over the age of twenty-one years and are resident citizens of Baldwin County, Alabama, their more particular address being Fairhope, Alabama, and that they have been engaged and were engaged in the business of General Contractors at the time of the matters herein complained of. That the Respondent, Gerald S. Mickle, Sr., is over the age of twenty-one years and a resident citizen of Baldwin County, Alabama, residing near Fairhope, Alabama. That the Bank of Fairhope, a corporation, is a banking corporation organized under the laws of the State of Alabama and is located in Fairhope, Alabama.

SECOND:

That during the month to-wit, October, 1955, the Complainants and the Respondent, Gerald S. Mickle, Sr., entered into an agreement whereby the Complainants were to furnish to the Respondent, Gerald S. Mickle, Sr., certain labor and material necessary to erect and build a dwelling house on the land hereinafter described which is owned by said Respondent and that in and by the terms of said agreement the said Respondent agreed to pay to the Complainants the sum of Nine Thousand Four Hundred Twenty-One Dollars and Forty Cents (\$9,421.40) for their services and the material furnished by them in the erection of said dwelling house. That the Complainants, according to the terms of the agreement aforesaid, purchased the necessary materials and employed and did the necessary labor in order to fully perform the contract and agreement referred to above and that they did complete the dwelling house as agreed between them and the Respondent, Gerald S. Mickle, Sr., and although they have completed said dwelling house in accordance with the agreement, the said Respondent has refused to pay to the Complainants the sum of Two Thousand Three Hundred Fifty-five Dollars and Thirty-five cents (\$2,355.35), which amount is the balance due to the Complainants from said Respondent under the terms of said agreement. That the Complainants have, in all respects, complied with the terms of their agreement with the Respondent, Gerald S. Mickle.

That the Complainants were the original contractors for the work referred to above and that as such they filed a statement of Lien, a copy of which is attached hereto and marked "Exhibit A" and by reference made a part hereof as though fully incorporated herein, for record in the office of the Judge of Probate of Baldwin County, Alabama, on April 9, 1956, which instrument is recorded in Book 5 of Exemptions and Liens at Pages 187-188, and it was filed within six months after the last item of material and labor was furnished by the Complainants for the Respondent, Gerald S. Mickle, Sr., under the terms of the agreement referred to above. That all of the work and labor referred to above and all of the materials furnished by the Complainants to the said Respondent were furnished and performed at the request of the Respondent, Gerald S. Mickle, Sr., and the dwelling house constructed by the Complainants is located on the following described real property which is owned by the said Respondent and which is situated in Baldwin County, Alabama, to-wit:

From a point on the Section line between Sections 31 and 32, Township 6 South, Range 3 East, said point being 417 feet North of the Southeast corner of said Section 31, and which point lies on the West bank of Fish River, run thence West 942 feet to a point which is 30 feet East of the East line of the Cemetery, run thence North 310 feet to a point, run thence North $71^{\circ} 30'$ West along the South line of the parcel of land described in the deed recorded in Deed Book 72 NS, at Page 276, Probate Records, Baldwin County, Alabama, 150 feet to a point of beginning; thence continue at the same angle along said line 150 feet to a point; run thence North $42^{\circ} 45'$ West 210 feet to a point; run thence South $71^{\circ} 30'$ West 150 feet, more or less, to the West line of the parcel referred to above; run thence South $42^{\circ} 45'$ East to the point of beginning.

FOURTH:

The Complainants claim of the Respondent, Gerald S. Mickle, Sr., Two Thousand Three Hundred Fifty-five Dollars and Thirty-five cents (\$2,355.35) due from him by account on the 5th day of March, 1956, which sum of money with the interest thereon, is still unpaid.

FIFTH:

The Complainants claim of the Respondent, Gerald S. Mickle,

Sr., the sum of Two Thousand Three Hundred Fifty-five Dollars and Thirty-five Cents (\$2,355.35) for work and labor performed by the Complainants at the request of said Respondent, which sum of money, together with the interest thereon from March 5, 1956, is still unpaid.

SIXTH:

The Complainants claim of the Respondent, Gerald S. Mickle, Sr., the sum of Two Thousand Three Hundred Fifty-five Dollars and Thirty-five Cents (\$2,355.35) for money on the 5th day of March, 1956, received by the Respondent, Gerald S. Mickle, Sr., to the Complainants, which sum of money, with the interest thereon, is still unpaid.

SEVENTH:

The Complainants further allege that on, to-wit: May 4, 1956, the Bank of Fairhope, a corporation organized and existing under the laws of the State of Alabama, instituted a suit against the Complainants in the Circuit Court of Baldwin County, Alabama, claiming of the Complainants the sum of One Thousand Dollars (\$1,000.00) due by promissory note made by them on January 10, 1956, with interest thereon, at the rate of six percent (6%) per annum from January 10, 1956, and the further sum of One Hundred Fifty Dollars (\$150.00) as attorneys fee due under the terms of said note; and the Complainants allege that this note was in fact executed by them and that they are in fact indebted to said bank in said amount but that the consideration for the execution of said note was the securing of funds with which to pay for labor and material under the terms of the agreement referred to above and that the said Respondent knew of said consideration and promised to pay to the Complainants the sum of One Thousand Dollars (\$1,000.00) plus said interest by January 31, 1956 to be applied on the balance due from him under the terms of the agreement referred to above and that the debt which the Complainants incurred with said bank was made in reliance upon the promise of the Respondent, Gerald S. Mickle, Sr., and the agreement referred to

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above and that they are now, on account of the refusal of the Respondent, Gerald S. Mickle, Sr., to pay the amount due them, without funds with which to pay said note or a judgment rendered in said cause.

PRAYER FOR PROCESS

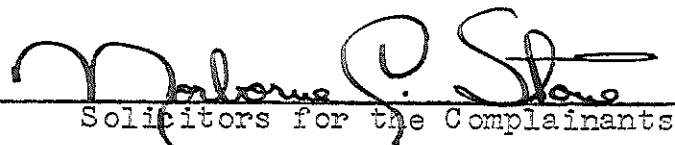
The premises considered, the Complainants respectfully pray that the Respondent, Gerald S. Mickle, Sr., and The Bank of Fairhope, a corporation, be made parties Respondent to this proceeding and that they be required to appear, plead, answer or demur to this Bill of Complaint within the time allowed by law.

PRAYER FOR RELIEF

The Complainants pray that this Court will enter an order transferring the cause now pending on the law side of this Court wherein the Bank of Fairhope is the Plaintiff and the Complainants are the Defendants, or, in the alternative, will enter an order staying the execution of any judgment rendered in said suit until a final determination of this cause. The Complainants further pray that on a final hearing of this cause that this Honorable Court will enter an appropriate order or decree ascertaining the amount due by the Respondent, Gerald S. Mickle, Sr., to the Complainants under the terms of the above stated contract and agreement and will render a decree against the said Gerald S. Mickle, Sr., and in favor of the Complainants for said amount; and that in and by the terms of said decree that this court will fix and establish a lien on the above described real estate and on the dwelling house which is located thereon, to secure the payment of said amount due by said Respondent to the Complainants and if the said amount is not paid within a time specified in said decree that the above described property be ordered sold to satisfy said lien. The Complainants further pray for such other, further and different relief to which, in equity, might be entitled to and which will be meet and proper.

CHASON & STONE

By:


Solicitors for the Complainants

STATE OF ALABAMA

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BALDWIN COUNTY

A. W. STAPLETON, SR. and A. W. STAPLETON, JR., individually and doing business as STAPLETON & STAPLETON, GENERAL CONTRACTORS, file this statement in writing, verified by the oath of A. W. Stapleton, Sr., who has personal knowledge of the facts herein set forth.

The said A. W. Stapleton, Sr. and A. W. Stapleton, Jr., individually and doing business as Stapleton & Stapleton, General Contractors, claim a lien upon the following property situated in Baldwin County, to-wit:

From a point on the Section line between Sections 31 and 32, Township 6 South, Range 3 East, said point being 417 feet North of the Southeast corner of said Section 31, and which point lies on the West bank of Fish River, run thence West 942 feet to a point which is 30 feet East of the East line of the cemetery, run thence North 310 feet to a point, run thence North $71^{\circ} 30'$ West along the South line of the parcel of land described in the deed recorded in Deed Book 72 N.S. page 276, Probate Records, Baldwin County, Alabama, 150 feet to a point of beginning; thence continue at the same angle along said line 150 feet to a point; run thence North $42^{\circ} 45'$ West 210 feet to a point; run thence South $71^{\circ} 30'$ West 150 feet, more or less, to the West line of the parcel referred to above; run thence South $42^{\circ} 45'$ East to the point of beginning.

This lien is claimed separately and severally, as to both the improvements on the above described property and on the said lands.

That said lien is claimed to secure an indebtedness of Two Thousand Three Hundred Fifty-five Dollars and Thirty-five Cents (\$2,355.35) with interest from to-wit: March 5, 1956, for labor and materials furnished by A. W. Stapleton, Sr. and A. W. Stapleton, Jr., individually and doing business as Stapleton & Stapleton, General Contractors.

The name of the owner and proprietor is Gerald S. Mickle, Sr.

A. W. STAPLETON, SR. and A. W. STAPLETON, JR., individually and doing business as STAPLETON & STAPLETON, GENERAL CONTRACTORS.

By: /s/ A. W. Stapleton Sr.
As a Partner.

STATE OF ALABAMA

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BALDWIN COUNTY

Before me, Norborne C. Stone, Jr., a Notary Public, in and for the County of Baldwin, State of Alabama, personally appeared A. W. Stapleton, Sr., who being duly sworn, doth depose and say:

That he has personal knowledge of the facts set forth in the foregoing statement of lien and that the same are true and correct to the best of his knowledge and belief.

/s/ A. W. Stapleton

Sworn to and subscribed before
me this 4th day of April, 1956.

Norborne C. Stone Jr.
Notary Public, Baldwin County, Ala.

A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., individually
and doing business as
STAPLETON & STAPLETON,
General Contractors,

COMPLAINANTS

VS.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE,
A Corporation,

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

DEMURRERS BY GERALD S. MICKLE, SR.
TO ORIGINAL BILL

Comes the Respondent, GERALD S. MICKLE, SR., and demurrs to
the bill of complaint filed in the above styled cause for the
following grounds.

1. Said bill is vague, indefinite, and uncertain in that it
does not:
 - a. Give the date of said agreement;
 - b. Show what services were to be under said agreement;
 - c. Show when said agreement was completed by
complainants.
2. That said bill is multifarious in that it joins bill to
establish lien, suit on account, counts for work and labor, counts
for money had, counts for money received.

E. G. RICKARBY
As Attorney for GERALD S. MICKLE, SR.

881 JUL 20 1956

TO HONORABLE CLERK OF THE COURT
BALDWIN COUNTY, ALABAMA
MOBILE, ALABAMA

FROM: A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., Individually
and doing business as
STAPLETON & STAPLETON,
General Contractors,
Mobile, Alabama

MOBILE, ALA.

TO HONORABLE CLERK OF THE COURT
BALDWIN COUNTY, ALABAMA
MOBILE, ALABAMA

FROM: GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE,
A Corporation,
Mobile, Alabama

MOBILE, ALA.

A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., Individ.
and doing business as
STAPLETON & STAPLETON,
General Contractors,

COMPLAINANTS

vs.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE,
A Corporation,

RESPONDENTS

DEMURRERS
BY GERALD S. MICKLE, SR.
TO ORIGINAL BILL

FILED
JUL 20 1956

NICE J. DUCK, Register

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

10 THOMAS FOR GEORGE S. MICKLE, SR.

A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., individually
and doing business as
STAPLETON & STAPLETON,
General Contractors,

COMPLAINANTS

VS.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE,
A Corporation,

RESPONDENTS

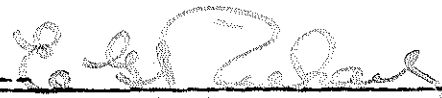
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

DEMURRERS BY BANK OF FAIRHOPE
to ORIGINAL BILL

Comes the Respondent, the BANK OF FAIRHOPE and demurrs to the
bill filed against it in the above styled cause for the following
grounds.

1. Said bill shows insufficient facts to authorize this Court
to transfer the said Respondent's Law case to the Equity side or
stay execution in said Law cause.

2. Said bill affirmatively shows that the Respondent, the
BANK OF FAIRHOPE, has a Legal cause of action against the Complainants
and that there is no equity in the bill as against the BANK OF
FAIRHOPE.



E. G. RICKARBY
As Solicitor for Bank of Fairhope

3814

A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., Individ.
and doing business as
STAPLETON & STAPLETON,
General Contractors,

COMPLAINANTS

vs.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE,
A Corporation

RESPONDENTS

DEMURRERS

By
BANK OF FAIRHOPE
TO ORIGINAL BILL

FILED

JUL 20 1956

ALICE J. DUCK, Register

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

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A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., individually
and doing business as STAPLETON &
STAPLETON, General Contractors,

Complainants,

vs.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE, a cor-
poration,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

ANSWER AND CROSS BILL

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN
EQUITY, AND TO THE HONORABLE HUBERT M. HALL, THE JUDGE THEREOF:

Comes the Respondent, GERALD S. MICKLE, SR., and for
answer to the Bill of Complaint in the above styled cause, says:

FIRST:

As to the first paragraph, he admits the allegation.

SECOND:

As to the second paragraph, Respondent admits he had
an agreement with the Complainants, whereby they were to erect
and complete a dwelling house, with the exception of the paint,
for the sum of NINE THOUSAND FOUR HUNDRED TWENTY-ONE DOLLARS AND
FORTY CENTS (\$9,421.40), but denies that the Complainants either
purchased the necessary materials, or employed the necessary
labor, in order to perform said contract, and denies that the
Complainant completed said contract, and denies that the sum
sued for, or any other sum, is due under said contract.

THIRD:

As to the third paragraph, Respondent neither admits
nor denies the allegations therein.

FOURTH:

As to the fourth paragraph, Respondent denies there is
any sum due from him by account to the Complainants as alleged in
paragraph four.

FIFTH:

Respondent denies that there is any sum due Complainants
for work and labor performed by Complainants at the request of
Respondent.

SIXTH:

As to the sixth paragraph, Respondent denies there is

any sum due by Respondent to Complainants as alleged in Paragraph Six.

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SEVENTH:

As to the seventh paragraph, Respondent neither affirms or denies the allegation in said paragraph, but alleges that said note is now paid by Complainants.

Respondent prays that the following be taken and considered as a Cross-Bill and further alleges:

1. That under an agreement between Respondents and cross-Complainant, the Complainants agreed to erect a dwelling house on Respondent's land in a good and workmanlike manner for the sum of aforesaid NINE THOUSAND FOUR HUNDRED TWENTY-ONE DOLLARS AND FORTY CENTS (\$9,421.40), which contract was entered into on, to-wit, the 8th day of October, 1955, and under which the Complainants did agree to have same completed in four months (4 mos.) from that date, namely, the 8th day of February, 1956.

2. Respondent and cross-Complainant further shows that the Complainants were paid the sum of SEVEN THOUSAND AND SIXTY-SIX DOLLARS AND FIVE CENTS (\$7,066.05) in three (3) payments as the work progressed.

3. Respondent and cross-Complainant further shows that although Complainants agreed to perform said work in a substantial and workmanlike manner, in accordance with the plans and specifications, they failed to perform part of said work, namely:

- a. Failed to furnish and install folding door for closet hall.
- b. Failed to furnish and install hook and eyes for windows and storm shutters.
- c. Failed to clean up around the house and the interior.
- d. Failed to install attic ventilation in accordance with the plans and specifications.
- e. Failed to furnish extra Cypress lumber for cabinet shutters and outdoor furniture, as agreed.
- f. Failed to install pipe handrail to front steps.
- g. Asbestos tile flooring was not laid smooth and, in part, over excessive dirt, sawdust, and mortar dropping, so that it was unsightly, uneven, and did not adhere to the floor.
- h. The tile flooring in Bedroom No. 1 was not completed and not trimmed off at metal edge.

- i. The door to Bedroom No. 1 to sleeping porch was split, damaged and loosely hung.
- j. The screen door on front porch was broken, loose hung, and with no spring return.
- k. Plastic Tile on walls only carried up 46" instead of to six feet, as per contract, over and around tub and shower area.
- l. Walls bulged; plastic tile throughout loose; grouting unsightly; several tiles cracked. Not waterproof.
- m. Wooden window trim, hallway trim, basetrims: Unsightly, not stopped off properly; much of it so lightly nailed to plasterboard, pieces pull off by hand.
- n. Tileboard and metal trim poorly fitted and unsightly; large roofing nails driven haphazardly. Holes bored in ceiling. Tileboard damaged at edges, very unsightly.
- o. Plumbing: Tub and shower fixtures out of plumb, unsightly; used galvanized fittings instead of copper or bronze as per contract; burned escutcheon; other washbasin escutcheons not installed on wall; copper piping in wall at washbasin damaged. Faucets leaking.

4. Respondent and cross-Complainant further shows that the Complainants did abandon said agreement on to-wit, the 5th day of February, 1956, well knowing that said work was not completed, and what work was completed was not performed in a good and workmanlike manner.

5. Respondent and cross-Complainant further show that he had to expend and did expend a great sum of money to partial remedy the defective workmanship and the incompleting work, namely, he had to pay SIX HUNDRED AND FOURTEEN DOLLARS AND EIGHTY CENTS (\$614.80) for installing tile flooring; ONE HUNDRED AND SEVENTY-SIX DOLLARS (\$176.00) for installing wallboard and trim in bathroom; ONE THOUSAND EIGHT DOLLARS AND SIXTY-SEVEN CENTS (\$1,008.67) for reworking kitchen cabinets, and repairs to doors, frames and trim and general woodwork, and defects in the workmanship, and Respondent had to expend ONE HUNDRED SEVENTY-FIVE DOLLARS AND FIFTY-TWO CENTS (\$175.52) in labor and EIGHTY-NINE DOLLARS AND TWENTY-NINE CENTS (\$89.29) for materials in clean-up work, and there is, yet, approximately FIVE HUNDRED EIGHTY-FIVE DOLLARS AND FIFTY-FIVE CENTS (\$585.55) in repairs to be done to bring said house up to plans and specifications, with the exception of certain defects, which cannot be repaired except at prohibitive cost.

6. Over and above the sums mentioned above, the Complainants,

While the work was in progress, agreed to reimburse this Respondent for material furnished by Respondent in the completion of the house which he had on hand, namely, gravel and sand, reinforcing steel, copper fittings and wire, and miscellaneous materials, to the sum of ONE HUNDRED AND FIVE DOLLARS AND FIFTY-ONE CENTS (\$105.51).

7. Respondent further shows that defects in the structure which cannot be corrected, except at prohibitive expense, are as follows:

- a. Windows damaged to about SIX HUNDRED DOLLARS (\$600.00)
- b. Sub-flooring defective to about ONE HUNDRED DOLLARS (\$100.00)
- c. Window sills to about ONE HUNDRED DOLLARS (\$100.00)
- d. Screening studs - ONE HUNDRED DOLLARS (\$100.00)
- e. Closet Doors, wall and trim out of plumb TWO HUNDRED DOLLARS (\$200.00)
- f. Woodwork scarred and unsightly - FIVE HUNDRED DOLLARS (\$500.00),

And that he is damaged to the extent of the amount set opposite each of the particular defects by reason of said building not being in accordance with the contract as he had a right to expect.

8. Respondent and cross-complainant further alleges that he is damaged in that the Complainants agreed to complete said building on, or before, the 8th day of February, 1956, and that the Complainants delayed said work and did not complete said premises and did abandon said premises on to-wit, the 5th day of February, 1956, and that the Respondent was forced to stay out of his house until he could arrange to have said work done until the 8th day of June, 1956, and that the reasonable value of the use and occupancy of said house for said period is the sum of FIVE HUNDRED DOLLARS (\$500.00) which sum, together with the other sums above mentioned, is due and unpaid.

Therefore, Respondent and cross-Complainant moves that due notice of this complaint be given to the Complainant in accordance with law and further prays that upon a hearing of this bill, the Court will ascertain the facts as alleged and determine:

1. That there is nothing owed from the Respondent to the Complainant;
2. And, that the court will further determine the extent of the Respondent's damage, set same off against the contract

price and render a judgment in favor of the Respondent against the Complainants for the amounts so ascertained.

And Respondent prays for such other further and different reliefs as to Equity may seem meet.



E. G. RICKARBY,
Attorney for Respondent and
Cross-Complainant

3814

A. W. STAPLETON, SR. and
A. W. STAPLETON, JR., in-
dividually and doing business
as STAPLETON & STAPLETON,
General Contractors,

COMPLAINANTS

VS.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE, a
corporation,

RESPONDENTS.

ANSWER *and* CROSS BILL

FILED

NOV 20 1956

Alex J. Dugg, Register

IN THE CIRCUIT COURT OF
In Equity
BALDWIN COUNTY, ALABAMA

Please mark filed

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LAW OFFICES
E. G. RICKARBY
BANK BUILDING
FAIRHOPE, ALABAMA

July 18, 1956

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

Dear Mrs. Duck:

Inre: Stapleton & Stapleton
vs.
Gerald S. Mickle, Sr., and
The Bank of Fairhope

With this we are handing you demurrers by G. S. Mickle and the Bank of Fairhope to the Bill in Equity filed by Stapleton and Stapleton, Case No. 3814.

Yours very truly,



EGR/fm

cc: Mr. Norborne Stone, Esq.
c/o Chason & Stone
Bay Minette, Alabama

General G. S. Mickle

Bank of Fairhope

A. W. STAPLETON, SR., and
A. W. STAPLETON, Jr., Individually
and doing business as STAPLETON &
STAPLETON, General Contractors,

Complainants,

VS.

GERALD S. MICKLE, SR., and
THE BANK OF FAIRHOPE, a Corporation,

Respondents.

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

NO. 3814

This cause coming on to be heard is submitted upon the original bill of complaint and the answer and cross bill thereto, and the testimony of the witnesses taken ore tenus.

The Court, after reading and considering the the pleadings and evidence finds that the Complainants and the Respondent, Gerald S. Mickle, Sr., entered into a contract whereby the Complainants were to construct for the Respondent, Gerald S. Mickle, Sr., a dwelling house for a consideration of NINE THOUSAND, FOUR HUNDRED TWENTY-ONE AND 40/100 (\$9,421.40) DOLLARS, and that of said amount the Respondent, Gerald S. Mickle, Sr. has made three payments, leaving a balance due of TWO THOUSAND THREE HUNDRED FIFTY-FIVE AND 35/100 (\$2,355.35) DOLLARS: That a question arose between the Complainants and the said Respondent, Gerald S. Mickle, Sr., relative to the manner in which the work was being performed, and the Complainants were, by the said Respondent, Gerald S. Mickle, Sr. stopped and not permitted to finish the contract.

That according to the evidence there were certain defects in the workmanship, and according to the controversial testimony of witnesses the work was not completed in a workmanlike manner; that there were certain repairs and additional work which the said Respondent, Gerald S. Mickle, Sr., necessarily had to do; that because of such work not being in a workmanlike manner he was, for a period of time, denied the use of the said property.

The Court, after considering all of the evidence, is to the conclusion that the said Respondent, Gerald S. Mickle, Sr., is entitled to a credit against the balance due under the contract of SEVEN HUNDRED FORTY NINE AND 50/100 (\$749.50) DOLLARS, leaving a balance due by the Respondent, Gerald S. Mickle, Sr., to the Complainants of ONE THOUSAND SIX HUNDRED FIVE AND 85/100 (\$1,605.85) DOLLARS;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complainants have and recover of the Respondent, Gerald S. Mickle, Jr., the sum of SIXTEEN HUNDRED FIVE AND 85/100 (\$1605.85) DOLLARS, for which execution may issue.

IT IS FURTHER the opinion of the Court that the Complainants are not entitled to relief as against the Bank of Fairhope, party Respondent;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the bill of Complaint as against the Bank of Fairhope be, and the same is hereby dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Respondent, Gerald S. Mickle, Sr., pay the costs herein taxed, for which execution may issue.

This 16th day of January, 1958.


Judge, 28th Judicial Circuit of
Alabama.

FILED
JAN 17 1958
ALICE J. BECK, Register

Equity

~~THE~~ SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

CIRCUIT COURT

BALDWIN COUNTY

Case No. 3814 Dec. TERM, 1957

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

- You Are Hereby Comanded to Summon
- 1. Herald S. Mickle, Sr.
 - 2. W. W. Wood 1st W. Commerce.
 - 3. Walter Quinley
 - 4. W. B. Taylor
 - 5. Harland Stevens
 - 6. Richard B. Jeaner
 - 7. Matthew Radd

if to be found in your County, at the instance of the Compt

to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by 9:00 o'clock of the forenoon, on the 10th day of Dec., 1957, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein A. W. Stapleton et al Plaintiff and Herald S. Mickle Sr et al Defendant.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 27 day of Nov, 1957.

Alice J. Duck Clerk.

Received in office this _____ day of _____, 195

SHERIFF

I have executed this writ:

12-6-1957

Gerald S. Mickle Sr

Walter Quinley

Garland Stevens

Richard R. Teague

Matthew Ladd

EXHIBITED

This 9 day of Dec, 1957

by serving a copy of the within on

J. W. Wood

Sheriff

By _____ D. S.

Thohle. Co.

Taylor Wilkins

SHERIFF

By

Edleigh Steadham

ORIGINAL

No. 3814

Page

THE STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

A. W. Stapleton, Sr.

et al

Plaintiff

Vs.

Gerald S. Mickle, Sr. &

Bank of Fairhope

Defendant

CIVIL SUBPOENA

Issued this 27 day of

Nov.

1957

Alice J. Luck

Clerk

Equities

~~THIS~~ SUBPOENA — ORIGINAL — In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he shall be barred.

THE STATE OF ALABAMA

CIRCUIT COURT

BALDWIN COUNTY

Case No. 3814 Dec. TERM, 1957

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETINGS:

You Are Hereby Commanded to Summon
1. J. E. Woolley
2. James Kennison
3. Mrs. Bessie Allegrini Bales
4. Milan Northrop - 5. W. J. Taylor

if to be found in your County, at the instance of the Respondent

to be and appear before the Honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof, by ~~9:00~~ ^{9:00} o'clock of the forenoon, on the 10 day of Dec., 1957, and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain cause pending, wherein A. W. Stapleton, Sr. et al, Plaintiff and Gerald S. Mickle, Sr. et al, Defendant.

Herein Fail Not, and have you then and there this Writ.

Given under my hand and seal, this 26 day of Nov., 1957

Alice J. Luck Clerk.

84/10
R

12/9 160

ORIGINAL

Received in office this _____ day of _____

No. 3814 Page _____

_____, 195_____

THE STATE OF ALABAMA

Baldwin County

SHERIFF

CIRCUIT COURT

I have executed this writ:

12-6-1957
By Seizing
J. E. Woolly
James Harrison
Mrs Bessie Allegri Bales

A. W. Stapleton, sr.
et al

Plaintiff

Vs.

Herald S. Mickle, sr.
& Bank of Fairhope

Defendant

EXECUTED

This 9 day of Dec., 1957

by serving a copy of the within on
W. J. Taylor
BY D. FRANCES, Sheriff
W. Chatham D. S.
Moble Co.

Equity
CIVIL SUBPOENA

Issued this 26 day of _____

November, 1957

Alice J. Duck
Clerk

Taylor Wilkins
By _____ SHERIFF
Edlign Steadham

A. W. STAPLETON, SR., and
A. W. STAPLETON, JR., In-
dividually and doing business
as STAPLETON & STAPLETON,
General Contractors,

Complainants,

vs.

GERALD S. MICKLE, SR.,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

NOTICE OF FILING OF DEPOSITION

TO: HON. E. G. RICKARBY, ATTORNEY OF RECORD FOR THE RESPONDENT,
FAIRHOPE, ALABAMA:

You will please take notice that the deposition of
Gerald S. Mickle, Sr., taken upon oral examination on December 17,
1956, before Louise Dusenbury was filed with the Clerk of the Cir-
cuit Court of Baldwin County, Alabama, on February 26, 1957.

Done this 21st day of March, 1957.

CHASON & STONE

By: 

STATE OF ALABAMA

BALDWIN COUNTY

I, Norborne C. Stone, Jr., one of the solicitors of
record for the Complainants in the above styled cause, do hereby
certify that he has this day mailed a copy of the foregoing notice
to Hon. E. G. Rickarby, postage prepaid and properly addressed, to
him at Fairhope, Alabama.

Done this 21st day of March, 1957.


Norborne C. Stone, Jr.

