

3983

CLARA HUNTER, ET AL.,	X	
Complainants,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
	X	IN EQUITY
A. V. LAZZARI, ET AL.,	X	
Respondents.	X	

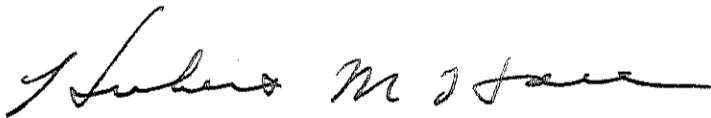
DECREE SUSTAINING DEMURRER TO AMENDED COMPLAINT

This cause coming on to be heard was submitted to the Court on the Bill of Complaint as last amended and the Demurrer there-
to filed on behalf of the Respondents; and the Court having consider-
ed the same is of the opinion that said demurrer should be sustained;
it is therefore

ORDERED, ADJUDGED and DECREED by the Circuit Court of Baldwin County, Alabama, In Equity, that the demurrer of the Respon-
dents be, and the same is hereby, sustained.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Complainants shall have twenty (20) days in which to amend their Bill of Complaint further if they desire to do so.

Done this the 9th day of July, 1957.


Circuit Judge

CALVIN L. HUNTER,
Complainant
vs.

JOE LAZZARI and A. V.
LAZZARI,
Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

AMENDED COMPLAINT

Comes now the Complainant, in the above styled cause, by his Attorney, and amends the Bill of Complaint heretofore filed in said cause to read as follows:

JAMES CONAWAY and
DELORIS CONAWAY,
Complainants

vs.
JOE LAZZARI,
Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

1.

The Complainants are over the ages of twenty-one years and are residents of Baldwin County, Alabama.

2.

That the Respondent is over the age of twenty-one years and is a resident of Baldwin County, Alabama.

3.

That the Complainant, James Conaway, is the owner of devised lands in Baldwin County, Alabama, together with other legatees, by the Last Will and Testament of Robert Hunter, deceased, and which estate was administered in the Probate Court of Baldwin County, Alabama; that in effecting the division of property among the legatees of the said Robert Hunter, the deeds of conveyance incorrectly described the property devised to the Complainant, James Conaway; since the filing of these proceedings, the deed of conveyance has been corrected in accordance with the Last Will and Testament of the said Robert Hunter, and the Complainant, James Conaway, is now the owner of the following described real property lying and

being in Baldwin County, Alabama, viz:

Beginning at the Southwest corner of the Northwest Quarter of Section 13, Township 5 South, Range 2 East, thence run East 1316 feet to a corner; thence run North 298.2 feet to a corner; thence run West 1316 feet to the Section Line; thence run South 298.2 feet to the beginning corner.

4.

That the Respondent owns lands adjacent to the described lands, or that he occupies lands adjacent to the above described lands.

5.

That the Respondent, or his agents, servants or employees, have been, and are continuing to trespass on the above and foregoing described lands, repeatedly and continuously.

6.

That the Respondent, and his agents, servants or employees, have been and are continuing to trespass on the above and foregoing described lands repeatedly and continuously, in that, they are using a strip of land along the South side and along the one-half (1/2) Section line, herein described, as and for a passageway for their own use.

7.

That, if permitted to continue, said trespasses would destroy the fee in that portion of the land upon which they are trespassing in that they would ripen into prescriptive rights in said Respondent.

8.

That the injury resulting from said trespasses is not capable of estimation in terms of money.

9.

That your Complainants are without an adequate remedy at law; and that if Respondent is permitted to continue his trespasses, Complainants will suffer irreparable injury and damage.

WHEREFORE, THE PREMISES CONSIDERED, Complainants make the said Joe Lazzari party respondent to this Bill of Complaint, and, in order that Complainants may have the relief hereinafter prayed for, may it please Your Honor to cause the State's Writ of Subpoena to be issued, directed to said Respondent, requiring him to come into

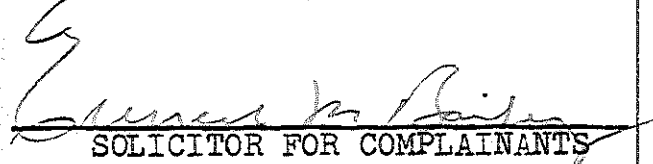
Court and plead, answer or demur to this amended Bill of Complaint within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

The Complainants further pray that, on a final hearing of this cause, a decree or order be made and entered perpetually enjoining Respondent, his agents, servants or employees, their heirs and assigns, from trespassing upon the lands of your Complainants OR in any way using said lands as a passageway; and if Complainants be mistaken in the relief prays for, then they hereby pray for such other, further, different or general relief as to Your Honor may seem meet, just and proper in the premises and as in duty bound your Complainants will ever pray, etc.


SOLICITOR FOR COMPLAINANTS

CERTIFICATE

I certify that I have this day caused a copy of the foregoing to be duly served upon Chason and Stone, attorneys of record for the Respondent, by posting in the United States Mail, postage prepaid, and addressed to them at their offices in Bay Minette, Alabama, a copy of the same on this the 2nd day of April, 1958.


SOLICITOR FOR COMPLAINANTS

filed April 8, 1958
Allice J. Lucke,
Register

AMENDED COMPLAINT

JAMES CONAWAY AND
DELORIS CONAWAY,

COMPLAINANTS

VS.

JOE LAZZARI,

RESPONDENT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

FILED
APR 8 1956
ALICE J. DUCK, Register

CLARA HUNTER, et al,	¶	
Complainants	¶	IN THE CIRCUIT COURT OF
VS.	¶	BALDWIN COUNTY, ALABAMA
JOE LAZZARI, et al,	¶	IN EQUITY
Respondents	¶	CASE NO. _____

AMENDED COMPLAINT

Comes now the Complainants in the above styled cause, by their Solicitor, and amends the Bill of Complaint heretofore filed in said cause to read as follows:

CALVIN L. HUNTER,	¶	
Complainant	¶	IN THE CIRCUIT COURT OF
VS.	¶	BALDWIN COUNTY, ALABAMA
JOE LAZZARI and A. V.	¶	IN EQUITY
LAZZARI,	¶	CASE NO. _____
Respondents	¶	

1.

The Complainant is over the age of twenty-one years and a non-resident of the state of Alabama, residing in the state of Michigan.

2.

That the Respondents are each over the age of twenty-one years and are residents of the County of Baldwin, State of Alabama.

3.

That the Complainant is the owner of the following described real property lying and being in Baldwin County, Alabama, viz:

From the Northwest corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 13, Township 5 South, Range 2 East, run South 1329 feet, more or less, to a point of beginning; thence East along the one-half ($\frac{1}{2}$) Section line of said Section 1316 feet to a point; thence North 298.2 feet, more or less, to a point; thence West 1316 feet, more or less, to a point; thence South 298.2 feet more or less, to the point of beginning.

4.

That the Respondents own lands adjacent to the above described lands, or that they occupy lands adjacent to the above described

lands.

5.

That the Respondents, and their agents, servants or employees, have been, and are continuing to trespass on the above and foregoing described lands, repeatedly and continuously.

6.

That the Respondents, and their agents, servants or employees, have been and are continuing to trespass on the above and foregoing described lands repeatedly and continuously, in that, they are using a strip of land along the South side and along the one-half ($\frac{1}{2}$) Section line, herein described, as and for a passageway for their own use.

7.

That, if permitted to continue, said trespasses would destroy the fee in that portion of the land upon which they are trespassing in that they would ripen into prescriptive rights in said Respondents.

8.

That the injury resulting from said trespasses is not capable of estimation in terms of money.

9.

That your Complainant is without an adequate remedy at law; and that if Respondents are permitted to continue their trespasses Complainant will suffer irreparable injury and damage.

WHEREFORE, THE PREMISES CONSIDERED, Complainant makes the said Joe Lazzari and A. V. Lazzari parties respondent to this Bill of Complaint, and, in order that Complainant may have the relief hereinafter prayed for, may it please Your Honor to cause the State's Writ of Subpoena to be issued, directed to said Respondents, requiring them to come into Court and plead, answer or demur to this amended Bill of Complaint within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

The Complainant further prays that, on a final hearing of this

cause, a decree or order be made and entered perpetually enjoining Respondents, their agents, servants, or employees, their heirs and assigns, from trespassing upon the lands of your Complainant OR in any way using said lands as a passageway; and if Complainant be mistaken in the relief prayed for, then he hereby prays for such other, further, different or general relief as to Your Honor may seem meet, just and proper in the premises and as in duty bound your Complainant will ever pray, etc.


SOLICITOR FOR COMPLAINANT

CERTIFICATE

I certify that I have this day caused a copy of the foregoing to be duly served upon Chason and Stone, attorneys of record for the Respondents, by posting in the United States Mail, postage prepaid, and addressed to them at their offices in Bay Minette, Alabama, a copy of the same on this the 22nd day of July, 1957.


SOLICITOR FOR COMPLAINANT

filed July 24, 1957
Alice J. Cook, Register

3983

AMENDED BILL OF
COMPLAINT

CALVIN L. HUNTER,
COMPLAINANT

VS.

JOE LAZZARI AND A. V.
LAZZARI,
RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
CASE NUMBER 3983

FILED

JUL 24 1957

ALICE J. BUCK, Register

JAMES CONAWAY, et al.

Complainants,

vs.

JOE LAZZARI,

Respondent.

¶
¶
X
¶
¶
X
¶
¶

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

Comes now the Respondent, by his attorneys, and moves this Honorable Court to strike the amended complaint heretofore filed in this cause by Calvin L. Hunter, and each paragraph or section thereof and assigns the following separate and several grounds in support thereof:

1. The amended complaint works a complete change of parties complainant in this proceeding.

2. The complainant, Calvin L. Hunter, is not a party to the complaint as amended.

3. That the submission for final decree of the cause of Calvin L. Hunter, complainant, vs. Joe Lazzari, et al., has not been set aside by this Honorable Court.

4. That this cause was heretofore submitted for final decree to this Honorable Court and testimony taken and upon such submission and taking of testimony this Honorable Court rendered an oral decree to the effect that the complaint was dismissed; and although no formal decree has been entered dismissing this cause the same now stands dismissed in this Honorable Court.

5. The purported amendment of the complaint in the cause of Calvin L. Hunter, complainant, vs. Joe Lazzari, et al., is not authorized by law nor by the rules governing the practice in equity courts in the State of Alabama.

Respectively submitted

CHASON & STONE

filed
April 12, 1958
Alice J. Luck
Register

By:

Melburn Stone
Attorneys for Respondent, Joe Lazzari

CLARA HUNTER, CALVIN HUNTER, §
and JAMES CONAWAY,

Complainants, §

VS. §

JOE LAZZARI, A. V. LAZZARI
and WALTER DOYLES, §

Respondents.

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

AMENDED COMPLAINT

Comes now the Complainants in the above styled cause and a-
mends the Bill of Complaint heretofore filed in said cause as
follows:

CLARA HUNTER, CALVIN HUNTER, §
and JAMES CONAWAY,

Complainants, §

VS. §

JOE LAZZARI and A. V. LAZZARI, §

Respondents. §

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

1.

That Complainants are each over the age of twenty-one years,
and that they are residents of Baldwin County, Alabama.

2.

That the Respondents are each over the age of twenty-one
years and are residents of Baldwin County, Alabama.

3.

That the Complainants are the owners, or joint owners, by
reason of inheritance, and in possession of the following described
real property lying and being in Baldwin County, Alabama, viz:

From the Northwest corner of the Southwest Quarter ($\frac{1}{4}$)
of the Northwest Quarter ($\frac{1}{4}$) of Section 13, Township 5
South, Range 2 East, run West 1329 feet to a point of
beginning; thence South along the one-half ($\frac{1}{2}$) section
line of said Section 13, 1316 feet to a point; thence
East 569.4 feet, more or less, to a point; thence North
1316 feet, more or less; thence West 569.4 feet, more
or less, to the point of beginning.

4.

That the Respondents own lands adjacent to the above described lands, or that they occupy lands adjacent to the above described lands.

5.

That the Respondents, and their agents, servants or employees, have been, and are continuing to trespass on the above and foregoing described lands, repeatedly and continuously.

6.

That the Respondents, and their agents, servants or employees, have been and are continuing to trespass on the above and foregoing described lands repeatedly and continuously, in that, they are using a strip of land along the West side and along the one-half ($\frac{1}{2}$) section line, herein described, as and for a passageway for their own use.

7.

That, if permitted to continue, said trespasses would destroy the fee in that portion of the land upon which they are trespassing in that they would ripen into prescriptive rights in said Respondents.

8.

That the injury resulting from said trespasses is not capable of estimation in terms of money.

9.

That your Complainants are without an adequate remedy at law; and that if Respondents are permitted to continue their trespasses Complainants will suffer irreparable injury and damage.

WHEREFORE, THE PREMISES CONSIDERED, Complainants make the said JOE LAZZARI and A. V. LAZZARI parties respondent to this Bill of Complaint, and, in order that Complainants may have the relief hereinafter prayed for, may it please Your Honor to cause the State's Writ of Subpoena to be issued, directed to said Respondents, requir-

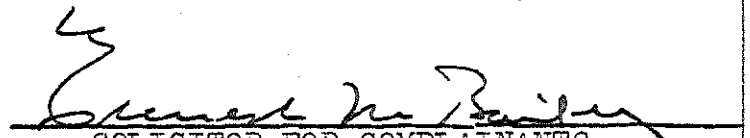
ing them to come into Court and plead, answer or demur to this amended Bill of Complaint within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

The Complainants further pray that, on a final hearing of this cause, a decree or order be made and entered perpetually enjoining Respondents, their agents, servants, or employees, their heirs or assigns, from trespassing upon the lands of your Complainants OR in any way using said lands as a passageway; and if Complainants be mistaken in the relief prayed for, then they hereby pray for such other, further, different or general relief as to Your Honor may seem meet, just and proper in the premises and as in duty bound your Complainants will ever pray, etc.


SOLICITOR FOR COMPLAINANTS

CERTIFICATE

I certify that I have this day caused a copy of the foregoing to be duly served upon Chason and Stone, attorneys of record for the Respondents, by posting in the United States Mail, postage prepaid, and addressed to them at their offices in Bay Minette, Alabama, a copy of the same on this the 22nd day of May, 1957.


SOLICITOR FOR COMPLAINANTS

FILED

MAY 24 1957

ALICE I. DICK, Register

2983

CLARA HUNTER, CALVIN HUNTER
and JAMES CONAWAY,

Complainants

vs.

JOE LAZZARI and A. V. LAZZARI

Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

AMENDED BILL OF COMPLAINT

FILED
MAY 24 1957
ALICE J. DECK, Register

CLARA HUNTER, ET AL.,
Complainants,
vs.
A. V. LAZZARI, ET AL.,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

DEMURRER TO AMENDED COMPLAINT

Come now the Respondents in the above styled cause, by their Solicitors, and demur to the amended Bill of Complaint heretofore filed against them and to each aspect thereof, separately and severally and assign the following separate and several grounds in support thereof:

1. There is no equity in the Bill of Complaint.
2. The allegations of the Bill of Complaint are vague, indefinite and uncertain in that the land therein described is not described with sufficient certainty.
3. The complaint fails to allege whether each of the Complainants are the owners of a portion of the property described in the Bill of Complaint or whether they are each the owners of an undivided interest therein.
4. The Complaint fails to allege how or in what manner or under what right the Complainants are owners of the property described therein by reason of inheritance.
5. The allegations of the complaint are inconsistent in that it alleges that the Respondents either own or occupy lands adjacent to the lands described in the Bill of Complaint.
6. The allegations of the Bill of Complaint fail to allege which agent, servant or employee of the Respondents has trespassed upon the land described therein or in what manner said agent, servant or employee has trespassed.
7. For aught that appears from the allegations of the Bill of Complaint the alleged trespass by the agents, servants or employees of the Respondent was not committed within the line and scope of their employment and was not directed or ratified by the Respondents.

8. It affirmatively appears from the allegations of the Bill of Complaint that the agents, servants or employees of the Respondents are indispensable parties to this proceeding.

9. It affirmatively appears from the allegations of the Bill of Complaint that the agents, servants or employees of the Respondents are necessary parties to this proceeding.

10. The allegations of the Bill of Complaint are vague, indefinite and uncertain in that it is alleged therein that the Respondents and their agents, servants or employees are trespassing along the One-half Section line therein described and the parcel of land described in said complaint is not located on any One-half Section line.

11. For aught that appears from the Bill of Complaint the Respondents and their agents, servants or employees have been using the strip of land along and across the property of the Complainants and their predecessors in title for such length of time and in such manner as to ripen into a prescriptive right in the Respondents and their agents, servants and employees to use said strip as a public way.

12. For aught that appears from the Bill of Complaint the Respondents and their agents, servants or employees have been using the strip of land along and across the property of the Complainants and their predecessors in title as a private way and as a means of access to and from adjoining lands of the Respondents to a public road.

13. The allegations of the Bill of Complaint that "said trespass would destroy the fee" is a conclusion of the pleader.

14. It affirmatively appears from the allegations of the Bill of Complaint, construing the same most strongly against the pleader, that the land of the Complainants would only be subject to right-of-way in the Respondents and others for use of a small portion of the same as a public road and that the fee simple title therein would not be divested from the Complainants.

15. It affirmatively appears from the Bill of Complaint

that the Respondents are not in possession of any portion of the land of the Complainants and are not claiming any title thereto.

16. The Complainants have a plain, adequate and complete remedy at law.

Without waiving the foregoing demurrer but expressly insisting thereon, come now the Respondents and for answer to the amended Bill of Complaint hereto filed against them, allege and show unto this Honorable Court as follows:

1. The Respondents admit that Clara Hunter and James Conaway are over the age of twenty-one years and are residents of Baldwin County, Alabama and they admit that Calvin Hunter is over the age of twenty-one years but they deny that the said Calvin Hunter is a resident of Baldwin County, Alabama.

2. The Respondents admit the allegations of paragraph "2" of the amended Bill of Complaint.

3. The Respondents deny the allegations of paragraph "3" of the amended Bill of Complaint.

4. The Respondents deny the allegations of paragraph "4" of the amended Bill of Complaint.

5. The Respondents deny the allegations of paragraph "5" of the amended Bill of Complaint.

6. The Respondents deny the allegations of paragraph "6" of the amended Bill of Complaint.

7. The Respondents deny the allegations of paragraph "7" of the amended Bill of Complaint.

8. The Respondents deny the allegations of paragraph "8" of the amended Bill of Complaint.

9. The Respondents deny the allegations of paragraph "9" of the amended Bill of Complaint.

For further answer to the Bill of Complaint and to each aspect thereof the Respondents allege that the Complainants are now in possession of the following parcel of land situated in Baldwin County, Alabama, to-wit:

From the Southwest Corner of Northwest Quarter of Section 13, Township 5 South, Range 2 East, run North 8.88 chains, East 20 chains, South 8.88 chains, West 20 chains, to point of beginning, being in the Southwest Quarter of Southwest Quarter of Northwest Quarter, Section 13, Township 5 South, Range 2 East.


and that said parcel of land lies immediately North of the East-West One-half Section line in Section 13, Township 5 South, Range 2 East. That there now exists and has existed for fifty (50) years or more, a public road or public lane along said East-West One-half Section line in said section, which lane leads in an Easterly direction from the public road leading North from the Loxley-Daphne paved highway to the settlement known as Yellingville and that said road to Yellingville is located on the West line of said Section 13. That said public road or public lane running along the Southerly edge of the land of the Complainants is now recognized and has been for many years recognized as a public road or lane both by the Complainants and the Respondents and their respective predecessors in title; that the same has been used by the public generally for over fifty (50) years and has been maintained by the governing body of Baldwin County, Alabama, as a public road during most of that time. That this lane or road is fenced and the distance between the fence and the fence on the South is approximately twenty-four feet; and of this width approximately one-half thereof is located in the Southwest Quarter of the Northwest Quarter of said Section 13 and approximately one-half thereof in the Northwest Quarter of the Southwest Quarter of said Section 13. That the Respondent Joe Lazzari is the owner of the forty-five (45) acres immediately South of the parcel described above which adjoins said public lane and he is also the owner of the Southeast Quarter of the Northwest Quarter of said Section 13. That the Respondent A. V. Lazzari does not own, nor is he in possession, of any land adjoining the parcel of land hereinabove described. That the Respondent Joe Lazzari owns a house which is situated in the Southwest Corner of the Southeast Quarter of Northwest Quarter of said Section 13 and the most convenient access from said forty-five acre tract to the public road leading from Yellingville to the Loxley-Daphne highway is in a Westerly direction across said public lane or road. That no part of the Southeast Quarter of the Northwest Quarter of said Section 13 is adjacent or contiguous to any public road or highway, except the public lane which is hereinabove referred to but which the Complainants claim is not of a public nature, and said forty-five acre tract does

does not lie within the corporate limits of any municipality. That no part of the lane hereinabove referred to or of a fifteen foot strip of land along the South edge of the parcel hereinabove described runs through any person's yard, garden, orchard, stable lot, stable, gin house or curtilage.

WHEREFORE, the premises considered, the Respondent Joe Lazzari respectfully prays that his answer be taken as a Cross-Bill and that the Complainants be required to file an answer thereto and that upon a final hearing of this cause that the twenty-four (24) foot lane hereinabove referred to be declared to be a public road or lane; or, in the event that said lane is not decreed to be of a public nature that so much of the property of the Complainants be condemned so as to afford the Respondent Joe Lazzari a convenient means of access and right-of-way from the Southeast Quarter of the Northwest Quarter to the public road leading from the Loxley-Daphne highway to the settlement known as Yellingville. And the Respondent and Cross-Complainant Joe Lazzari does hereby offer to do equity and respectfully prays for such other, further and different relief as in the premises will be meet and proper and to which, in equity, he might be entitled.

CHASON & STONE

By:


Attorneys for Respondents

FILED
MAY 28 1957
ALICE L. BUCK, Register

CALVIN L. HUNTER,	Y	
Complainant,	Y	IN THE CIRCUIT COURT OF
vs.	Y	BALDWIN COUNTY, ALABAMA
	Y	IN EQUITY
JOE LAZZARI and A. V. LAZZARI,	Y	
Respondents	Y	

DEMURRER TO AMENDED COMPLAINT

Come now the Respondents in the above styled cause, by their Solicitors, and demur to the amended Bill of Complaint heretofore filed against them and to each aspect thereof, separately and severally, and assign the following separate and several grounds in support thereof:

1. There is no equity in the amended Bill of Complaint.
2. The complaint fails to allege how or in what manner or under what right the Complainant owns or claims title to the land described in the Bill of Complaint.
3. The allegations of the complaint are inconsistent in that it alleges that the Respondents either own or occupy lands adjacent to the lands described in the Bill of Complaint.
4. The allegations of the Bill of Complaint fail to allege which agent, servant or employee of the Respondents has trespassed upon the land described therein or in what manner said agent, servant or employee has trespassed.
5. For aught that appears from the allegations of the Bill of Complaint the alleged trespass by the agents, servants or employees of the Respondents was not committed within the line and scope of their employment and was not directed or ratified by the Respondents.
6. It affirmatively appears from the allegations of the Bill of Complaint that the agents, servants or employees of the Respondents are indispensable parties to this proceeding.
7. It affirmatively appears from the allegations of the Bill of Complaint that the agents, servants or employees of the Respondents are necessary parties to this proceeding.
8. For aught that appears from the Bill of Complaint the

Respondents and their agents, servants or employees have been using the strip of land along and across the property of the Complainant and his predecessors in title for such length of time and in such manner as to ripen into a prescriptive right in the Respondents and their agents, servants and employees to use said strip as a public way.

9. For aught that appears from the Bill of Complaint the Respondents and their agents, servants or employees have been using the strip of land along and across the property of the Complainant and his predecessors in title as a private way and as a means of access to and from adjoining lands of the Respondents to a public road.

10. The allegations of the Bill of Complaint that "said trespass would destroy the fee" is a conclusion of the pleader.

11. It affirmatively appears from the allegations of the Bill of Complaint, construing the same most strongly against the pleader, that the land of the Complainant would only be subject to right-of-way in the Respondents and others for use of a small portion of the same as a public road and that the fee simple title therein would not be divested from the Complainant.

12. The allegations of the amended Bill of Complaint are vague, indefinite and uncertain in that the amended Bill of Complaint fails to allege what portion of the land allegedly belonging to the Complainant is being trespassed upon by the Respondents and their agents, servants or employees.

13. For aught that appears from the Bill of Complaint, the Respondents, or either of them, are the owners of the Northwest Quarter of the Southwest Quarter of Section 13, Township 5 South, Range 2 East and the portion of the land allegedly belonging to the Complainant which is allegedly being trespassed upon by the Respondents is located within said Northwest Quarter of the Southwest Quarter.

14. The amended Bill of Complaint fails to allege how long or for what period of time the Respondents or their agents, servants or employees have been trespassing on the land described in the Bill of Complaint.

Respectfully submitted,

CHASON & STONE

By:

Mark S. Stone
Solicitors for Respondents

filed Dec. 9, 1957
Alice J. Clark, register

CLARA HUNTER, et al.,)	
)	IN THE CIRCUIT COURT OF
Complainants,)	
)	BALDWIN COUNTY, ALABAMA
versus)	
)	IN EQUITY
A. V. LAZZARI, et al.,)	
)	
Respondents.)	

DEMURRER

Come now the Respondents Joe Lazzari and A. V. Lazzari, by their Solicitors, and demur to the Bill of Complaint heretofore filed against them and assign the following separate and several grounds in support thereof:

1. The Complainants have a plain and adequate remedy at law.
2. There is no equity in the Bill of Complaint.
3. The allegations of the Bill of Complaint are vague, indefinite and uncertain in that it cannot be ascertained from said allegations which parcel of land described therein is allegedly being trespassed upon.
4. The allegations of the Complaint are vague, indefinite and uncertain in that they fail to allege or describe the parcels of land allegedly adjoining the land of the Complainants.
5. The allegations of the Complaint are vague, indefinite and uncertain in that six separate and distinct parcels of land are described therein but the Complaint fails to allege over which parcel the Respondents are allegedly trespassing.
6. The Complaint fails to allege how and in what manner the Complainants will be irreparably injured and damaged.
7. For aught that appears from the Complaint the Respondents have no other means of access to their lands other than the alleged passageway.
8. The Complaint fails to allege over which parcel of land described therein the Respondents are trespassing.
9. For aught that appears from the Complaint the alleged passageway over the land of the Complainants is a public way.

10. The Complaint fails to allege over which parcel of land described in the Complaint the Respondents are allegedly trespassing or to describe the portion thereof being used by the Respondents.

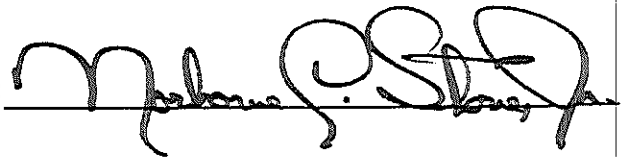
11. The Complaint fails to allege which of the Respondents own land adjoining the several parcels of land therein described.

12. The Complaint fails to allege the land owned or occupied by the several Respondents which adjoins the several parcels of land therein described.

13. The Complaint is multifarious.

CHASON & STONE

By:



filed 3-26-57
Alice J. Luck,
Register

CLARA HUNTER, CALVIN HUNTER,
and JAMES CONAWAY,

Complainants,

VS.

JOE LAZZARI, A. V. LAZZARI
and WALTER DOYLES,

Respondents.

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

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

Come now CLARA HUNTER, CALVIN HUNTER and JAMES CONAWAY,
complainants in this cause and present this their bill of
complaint to your Honor and this Honorable and show unto your
Honor the following facts as a basis for the relief hereinafter
prayed:

1. That complainants are each members of the Negro Race,
over the age of twenty-one years, and that they are residents
of Baldwin County, Alabama.

2. That the respondents are each over the age of twenty-
one years and are residents of Baldwin County, Alabama.

3. That your complainants are the owners and in posses-
sion of the following described real property, lying and being
in Baldwin County, Alabama, viz:

Southwest quarter of Northwest quarter of
Northwest quarter, less 1 acre, Section 13,
Township 5 South, Range 2 East;

Start at the Southwest Corner of Section 12,
Township 5 South, Range 2 East, run South
20 chains, East 9.77 chains for beginning
corner; thence run North 10 Chains, East 40
chains, South 10 chains, West 40 chains to
beginning, being in Section 13, Township 5
South, Range 2 East;

Beginning at the Northwest Corner of South-
west Quarter of Northwest quarter, run East
20 chains, South 2.22 chains, West 20 chains,
North 2.22 chains, being in Section 13, Town-
ship 5 South, Range 2 East;

From Southwest Corner of Northwest quarter of
Section 13, Township 5 South, Range 2 East,
run North 8.88 chains, East 20 chains, South
8.88 chains, West 20 chains, to point of be-
ginning, being in Southwest quarter of South-
west quarter of Northwest quarter, Section 13,
Township 5 South, Range 2 East.

From Northwest Quarter of Southwest quarter of
Northwest quarter, Section 13, Township 5 South
Range 2 East, run thence South 4.44 chains,

thence East 20 chains, thence North 4.44 chains, thence West 20 chains to place of beginning, being in Southwest quarter of Northwest quarter of Section 13, Township 5 South, Range 2 East;

Start at Center Stake on West Boundary of Section 12, run East 16.76 chains to Stake for beginning; thence run North 40.53 chains, East 3.32 chains, South 40.50 chains, West 3.44 chains to point of beginning, being in West half of Northwest quarter of Section 12, Township 5 South, Range 2 East.

4. That the respondents own lands adjacent to the above described lands, or that they occupy lands adjacent to the above described lands.

5. That respondents are members of the White Race.

6. That the respondents, and their agents, servants or employees, have been, and are continuing to trespass on the above and foregoing described lands, repeatedly and continuously;

7. That respondents, and their agents, servants or employees, are using said lands as and for a public passageway.

8. That, if permitted to continue, said trespasses would destroy the fee, in that they would ripen into prescriptive rights in said respondents.

9. That the injury resulting from said trespasses is not capable of estimation in terms of money.

10. That your complainants are without an adequate remedy at law; and that if respondents are permitted to continue their trespasses complainants will suffer irreparable injury and damage.

WHEREFORE, THE PREMISES CONSIDERED, complainant makes the said JOE LAZZARINI A. V. LAZZARI AND WALTER DOYLES parties respondent to this bill of complaint, and, in order that complainants may have the relief hereinafter prayed for, may it please your Honor to cause the State's Writ of Subpoena to be issued, directed to said respondents, requiring them to come into Court and plead, answer or demur to this bill of complaint within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

Complainants further pray that, on a final hearing of this cause, a decree or order be made and entered perpetually enjoining respondents, their agents, servants, or employees, their heirs or assigns, from trespassing upon the lands/^{of} your complainants

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No.z-3983.....

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon JOE LAZZARI, A.V. LAZZARI, AND WALTER DOYLES

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against _____

JOE LAZZARI, A.V. LAZZARI, AND WALTER DOYLES, Defendant

by CLARA HUNTER, CALVIN HUNTER AND JAMES CONAWAY, Plaintiff

Witness my hand this 28th day of February 19...57...

Clara Hunter, Clerk

**THE STATE OF ALABAMA
BALDWIN COUNTY**

CIRCUIT COURT

GLADIA HUNTER, CALVIN HUNTER

AND JAMES COMAWAY,

Plaintiffs

vs.

JOE LAZZARI, A.V. LAZZARI,

AND WALTER DOYLES

Defendants

SUMMONS and COMPLAINT

Filed February 28, 19 57

....., Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

....., 19.....

....., Sheriff

I have executed this summons

this, 19.....

by leaving a copy with

..... Sheriff

..... Deputy Sheriff

OR in any way using said lands as a public passageway; and
if complainants be mistaken in the relief prayed for, then they
hereby pray for such other, further, different or general relief
as to your Honor may seem meet, just and proper in the premises
and as in duty bound your complainants will ever pray, etc.

FILED : Feb. 28, 1957
Alice J. Duck, Register
Executed 6 day of March, 1957
By Service on
Joe Lazzari
A.V. Lazzari

J. Blair J. Maslebury, Jr.
SOLICITOR FOR COMPLAINANTS.

Taylor Wilkins, Sheriff

Returned Not Found as to
Walter Doyles,
Steadham, D.S.

CALVIN L. HUNTER,
Complainant

VERSUS

JOE LAZZARI and A. V.
LAZZARI,
Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

SECURITY FOR COSTS

We, the undersigned, hereby acknowledge ourselves
securities for costs of the above styled cause.

Clara Hunter
CLARA HUNTER

James Conway
JAMES CONWAY

Cabot L. Hunter
Complainant

VS

Joe Lazzari and
P.V. Lee
Restaurants

Security In Court

FILED

OCT 15 1957

ALICE J. DUCK, Clerk

CLERK OF SUPERIOR COURT
ALBANY COUNTY, NEW YORK
ALBANY, N.Y.

TO THE CLERK OF SUPERIOR COURT
ALBANY COUNTY, NEW YORK
ALBANY, N.Y.

RECEIVED
OCT 15 1957

RECEIVED
OCT 15 1957

THE STATE OF ALABAMA,

BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 2-3983

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JOE LAZZARI, A.V. LAZZARI, AND WALTER DOYLES, Defendant

by CLARA HUNTER, CALVIN HUNTER AND JAMES CONWAY

....., Plaintiff.....

Witness my hand this 28th day of February 1957.

Archie J. Hensch, Clerk

**THE STATE OF ALABAMA
BALDWIN COUNTY**

CIRCUIT COURT

CLARA HUNTER, CALVIN HUNTER

AND JAMES CONAWAY,

Plaintiffs

vs.

JOE LAZZARI, A.V. LAZZARI,

AND WALTER DOYLES

Defendants

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Filed February 28,....., 1957.....

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Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

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by leaving a copy with

..... Sheriff

..... Deputy Sheriff

CLARA HUNTER, CALVIN HUNTER,
and JAMES CONAWAY,

Complainants,

VS.

JOE LAZZARI, A. V. LAZZARI
and WALTER DOYLES,

Respondents.

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IN EQUITY. NO. _____

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6. That the respondents, and their agents, servants or employees, have been, and are continuing to trespass on the above and foregoing described lands, repeatedly and continuously;

7. That respondents, and their agents, servants or employees, are using said lands as and for a public passageway.

8. That, if permitted to continue, said trespasses would destroy the fee, in that they would ripen into prescriptive rights in said respondents.

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Complainants further pray that, on a final hearing of this cause, a decree or order be made and entered perpetually enjoining respondents, their agents, servants, or employees, their heirs or assigns, from trespassing upon the lands/your complainants
of

OR in any way using said lands as a public passageway; and if complainants be mistaken in the relief prayed for, then they hereby pray for such other, further, different or general relief as to your Honor may seem meet, just and proper in the premises and as in duty bound your complainants will ever pray, etc.

J. Louis Madbury
SOLICITOR FOR COMPLAINANTS.

FILED
1888

IN THE COURT OF
COMMON PLEAS
FOR THE COUNTY OF
MIDDLESEX

RECORDED

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

CLARA HUNTER, CALVIN HUNTER,
AND JAMES CONAWAY,
Complainants,

vs.

JOE LAZZARI, A. V. LAZZARI,
AND WALTER DOYLES,

Respondents.

BILL OF COMPLAINT.

FILED

FEB 128 1957

MARK A. BUCK, Register

3903

FILED IN BALDWIN COUNTY, ALABAMA

and as in this regard your compliance will save time etc.
as to your honor may soon meet that and before in the presence
before by you and other parties. The object of remedy letter
is compliance be discussed in the letter before you that you
on in my way and you are a public document and