

4332

DIVORCE DECREE

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama, Baldwin County

CIRCUIT COURT, IN EQUITY

AGNES POTTER, Complainant

vs.

ROBERT COLEMAN POTTER, Respondent

Answer

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

It is therefore ordered, adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the Complainant and Defendant be, and the same are hereby dissolved, and that the said

AGNES POTTER is forever divorced from the said ROBERT COLEMAN POTTER for and on account of

CRUELTY, and the Agreement between the parties,

filed herewith, is hereby confirmed.

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 Respondent be, and they are hereby permitted to again contract marriage upon payment of the cost of this suit.

It is further ordered that ROBERT COLEMAN POTTER, the Respondent

will pay the cost herein to be taxed, for which executed may issue.

This 15 day of December 1958

[Signature] Judge Circuit Court, In Equity.

I, _____, 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 _____, 19____

Register of Circuit Court, In Equity.

No. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

In Circuit Court, In Equity

AGNES POTTER

Complainant

vs.

ROBERT COLEMAN

POTTER

Respondent

DIVORCE DECREE

MOORE & SIMON
ATTORNEYS AT LAW
1011-13 VAN ANTWERP BUILDING
MOBILE 12, ALABAMA
HEMLOCK 3-9526

JAMES E. MOORE
OTTO E. SIMON
LIONEL L. LAYDEN

August 14, 1958

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

Dear Mr. Duck:

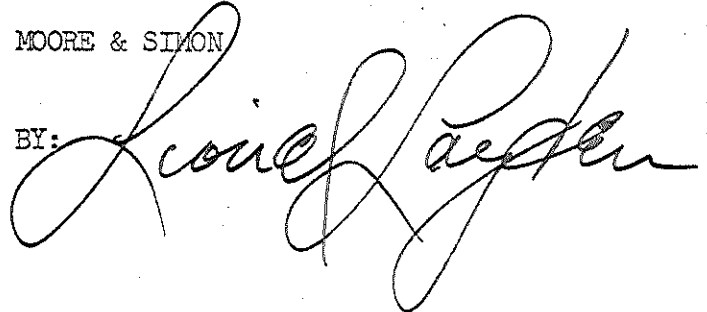
Re: Potter vs. Potter

Please inform the Judge that we do not desire to argue the sufficiency of our Pleas at the hearing, and we will submit it to the Judge.

Very truly yours,

MOORE & SIMON

BY:



LLL:lc

cc:

Mr. E. G. Rickarby
Attorney at Law
P. O. Box 71
Fairhope, Ala.

AGNES POTTER,

Complainant

-VS-

ROBERT COLEMAN POTTER


Respondent

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

MOTION FOR HEARING

Comes the Complainant in the above styled cause,
and moves the Court to set this cause for hearing to test
the sufficiency of the pleas incorporated in the Respondent's
answer, under Rule 16, of Equity Practice.



E. G. Rickarby,
Attorney for the Complainant

4332

AGNES POTTER,

Complainant

-VS-

ROBERT COLEMAN POTTER

Respondent

MOTION FOR HEARING

FILED

AUG 14 1958

Alice J. Duck, Register

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

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

August 11, 1958

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

Dear Mrs. Duck:

Inre: Potter vs. Potter
Our File: 4491

With this we are handing you "Motion For Hearing"
in the case of Potter vs. Potter.

A copy of this notice was this day mailed Mr.
Lionel L. Layden - Van Antwerp Building, Mobile,
Alabama.

Yours very truly,



EGR/nmk
Encl. 1
cc: Mr. Lionel L. Layden

LAW OFFICES
E. G. RICKARBY
BANK BUILDING
FAIRHOPE, ALABAMA
July 12, 1958

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

Dear Mrs. Duck:

Inre: Potter vs. Potter
Our File: 4491

With this I am handing you divorce bill in the case of
Agnes Potter versus Robert Coleman Potter, together
with our check of \$25.00 deposit for costs.

Please process and oblige.

Yours very truly,

EGR/sl
Encl:

P. S. We are not enclosing check of \$25.00 because
these people are not non-residents of the state.

Yours very truly,



EGR/sl
by sl

AGNES POTTER,
 Complainant,
 -VS-
 ROBERT COLEMAN POTTER,
 Respondent.

¶
 ¶
 ¶
 ¶
 ¶

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

I, TILLIE K. STEPHENS, Commissioner in the above mentioned cause now pending in the Equity side of the Circuit Court of Baldwin County, Alabama, hereby certify that I have caused the witness in this cause, namely, AGNES POTTER, to appear before me at my office in the Bank Building in the City of Fairhope, Baldwin County, Alabama, where said witness, after being first duly sworn by me, upon examination of E. G. RICKARBY, Esquire, her solicitor, did testify as shown by the attached testimony; and that her testimony was by me reduced to writing as given by her as near as might be in her identical language and, after being so reduced to writing, was read over by the said witness who assented to and signed the same in my presence.

I further certify that a copy of this testimony was mailed to Mr. Lionel L. Layden, Attorney for the Respondent, who approved the same in accordance with the attached stipulation.

I further certify that I am not of counsel or kin to either of the parties to the cause, nor anywise interested in the results thereof.

IN WITNESS, I hereunto set my hand as Commissioner on this the 18th day of November, 1958.

Tillie K. Stephens
 Commissioner

AGNES POTTER,	I	
Complainant,	I	IN THE CIRCUIT COURT OF
-VS-	I	BALDWIN COUNTY, ALABAMA,
ROBERT COLEMAN POTTER,	I	IN EQUITY.
Respondent.	I	

TESTIMONY OF AGNES POTTER, COMPLAINANT:

AGNES POTTER, being first duly sworn, deposes and says, as follows, to-wit:

My name is AGNES POTTER, and I am bringing this suit for a divorce against my husband, ROBERT COLEMAN POTTER. We are both past twenty-one years of age, and have been living here in Baldwin County, Alabama, for the last twenty years. Our home is about four miles east of Fairhope, and my home is just north and east of Klumpp's airport in Baldwin County, Alabama.

My husband and I were married on the 17th day of December, 1938, in Pensacola, Florida, and have lived together until the 23rd day of June, 1958.

Our marriage has not been a happy one and has gotten worse during the last four or five years. My husband, ROBERT COLEMAN POTTER, has a violent temper and from time to time he has threatened me with bodily harm.

On, or about the 27th day of June, 1958, while I was at my mother's home in Mobile, Alabama, my husband, ROBERT COLEMAN POTTER, came over and shook his fist in my face and told me that if I did not come back to the home in Baldwin County, he would beat me. I know that if I did come back to that home, that he would commit actual violence upon my person, attended with danger to my life or health, because he has a violent temper and his conduct toward me has gotten worse and worse-- for instance, he has contributed nothing to my support for the last four years, and I have had to work and use my money to support myself and the children, and he has spent most of his money on his farm.

There have been five children born to this marriage,

namely, Robert Joseph Potter, age eighteen years, who is just finishing school; Marie Potter, age, seventeen years; Carol Potter, age, thirteen; James Potter, age eleven years; and Charles Potter, age, eight years.

At present I am working over in Mobile as a Nurse's Aid, and it is difficult for me to make a permanent home for the children, but the children should visit with me on the week-ends and on holidays.

I know that it is impossible for ROBERT COLEMAN POTTER and I to have a happy home for the children, and there are five of the children and ROBERT COLEMAN needs the home to raise the children, so, subject to the approval of the Court, we have agreed that on a divorce being granted, I will convey my interest in the home to my husband, ROBERT COLEMAN POTTER, and he will pay the expenses of this divorce proceeding and that he will have the care and custody of the children, subject to my right to have them visit with me on week-ends and holidays.

Agnes Potter
AGNES POTTER

Subscribed and sworn to before me on this the 29th day of October, 1958.

Lillian H. Stephens
COMMISSIONER

AGNES POTTER,

Complainant,

-VS-

ROBERT COLEMAN POTTER,

Respondent.

TESTIMONY

FILED

NOV 17 1934

ALICE J. DUCK, CLERK
REGISTER

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

STATE OF ALABAMA)
COUNTY OF BALDWIN)

IT IS AGREED by and between AGNES POTTER
and ROBERT COLEMAN POTTER, the parties to this cause,
that:

This cause will be submitted on the testimony
of Mrs. Agnes Potter, the Complainant, taken before Tillie K.
Stephens, as Commissioner;

The parties agree that, on a divorce being
granted, the Complainant will convey to the Respondent all of
her right, title and interest in and to the farm and dwelling
house thereon;

That the Respondent, ROBERT COLEMAN POTTER,
will pay the Complainant's expenses in securing this divorce,
namely, Complainant's Solicitor's fee in the sum of One
Hundred (\$100.00) Dollars and the costs of Court in this case.

It is also agreed, subject to the approval of
the Court, that the children are now with the Respondent and
that it is now best for the children to be with their father,
and that the Respondent will have the care, custody, and
control of said children, subject to the Complainant's having
the right to have said children visit with her at reasonable
times and places.

It is further agreed that this agreement
settles all obligations between the Complainant and Respondent.

Agnes Potter
Robert Coleman Potter

ATTESTED BY:

E. G. Rickarby
E. G. Rickarby
Attorney for Complainant

Lionel L. Layden
Lionel L. Layden
Attorney for Respondent

AGNES POTTER,

Complainant,

vs

ROBERT COLEMAN POTTER,

Respondent.

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

§

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

Comes the Respondent, Robert Coleman Potter, in the above styled cause, and for answer to the bill of complaint and to each and every paragraph thereof, separately and severally, says:

FIRST:

The Respondent admits the allegations of Paragraph One except that upon information and belief he believes that the Complainant is now residing in Mobile County, Alabama.

SECOND:

Respondent admits the allegations of Paragraph Two.

THIRD:

For answer to the third paragraph of said bill, the Respondent denies each and every allegation therein contained and demands strict proof thereof.

FOURTH:

Respondent admits the allegations of Paragraph Four.

FIFTH:

For answer to the Fifth Paragraph of said bill, Respondent denies each and every allegation therein contained and demands strict proof thereof.

SIXTH:

Respondent admits that the equipment and acreage alleged in Paragraph Six does belong to him and the Complainant, but he denies that the said land cannot be equally divided and he denies that the Complainant is without funds.

Further answering the allegations of the complaint and for a separate and distinct defense, the Respondent alleges the following:

FIRST:

That heretofore on, to wit, the 23rd day of June, 1958, the said Complainant did without cause or justification leave the bed and board of the Respondent and did abandon him, without fault of the Respondent, and has never returned and, therefore, she should not be awarded a divorce.

For further answer to the bill of complaint and as a distinct defense, the Respondent avers as follows:

FIRST:

That the Complainant did leave the bed and board of the Respondent on, to wit, the 23rd day of June, 1958, and has never returned.

SECOND:

That between that time and the present time, she has had the inclination to commit adultery with a man whose name is Everett Fick, as evidenced by comment she has made and other evidence which will be introduced.

THIRD:

That since the time she left the bed and board of the Respondent, she has had the opportunity to commit adultery with the said Everett Fick, in that she has lived in Mobile and has seen this man frequently.

FOURTH:

The inclination of the Complainant to commit adultery, coupled with the opportunity, shows that the Complainant should not be awarded a divorce on the ground that she herself has committed a ground of divorce, namely, adultery.

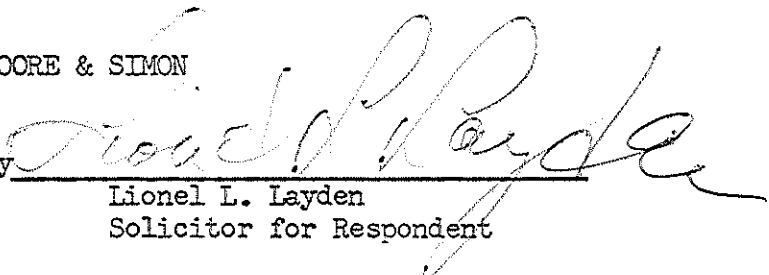
WHEREFORE, Respondent prays that this Court, on the hearing of this cause, will render a decree dismissing the bill of complaint and Respondent prays that the Honorable Court will give him the care, custody and control of the said minor children, and give to the Complainant the right of reason-

able visitation.

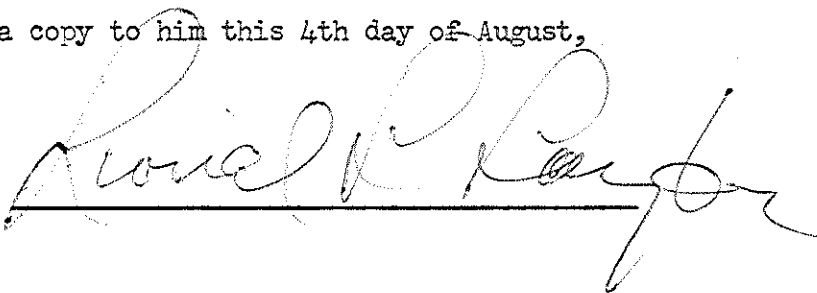
And the Respondent prays for such other, further or different relief as to Equity may seem meet.

MOORE & SIMON

By


Lionel L. Layden
Solicitor for Respondent

I have served a copy of this Answer on Mr. E. G. Rickarby, Attorney for the Complainant, by mailing a copy to him this 4th day of August, 1958.



SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,
Baldwin County.



Circuit Court, Baldwin County

No. _____

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Robert Coleman Potter

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 _____

Robert Coleman Potter _____, Defendant.

by Agnes Potter _____

_____, Plaintiff.

Witness my hand this 16th day of July 1958

Wiley Duck, Clerk

No. _____ Page _____

The State of Alabama
Baldwin County

CIRCUIT COURT

_____ Plaintiffs

vs.

_____ Defendants

Summons and Complaint

Filed _____ 19____

_____ Clerk

_____ Plaintiff's Attorney

_____ Defendant's Attorney

Defendant lives at

Received In Office

_____ 19____

_____, Sheriff

I have executed this summons

this _____ 19____

by leaving a copy with

_____ Sheriff

_____ Deputy Sheriff

AGNES POTTER,	¶	
Complainant,	¶	IN THE CIRCUIT COURT OF
-VS-	¶	BALDWIN COUNTY, ALABAMA,
ROBERT COLEMAN POTTER,	¶	IN EQUITY.
Respondent.	¶	

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

Comes AGNES POTTER by this her Bill of Complaint presented
against ROBERT COLEMAN POTTER, and respectfully shows:

FIRST: That the Complainant and Respondent are both over
the age of twenty-one years and both are now, and have been for
three years next preceding the filing of this Bill of Complaint,
bona fide residents of Baldwin County, Alabama.

SECOND: Complainant and Respondent were married on, or
about, the 17th day of December, 1938, in Pensacola, Florida,
and have lived together as husband and wife until about the 23rd
day of June, 1958.

THIRD: That the Respondent, ROBERT COLEMAN POTTER, has
threatened to strike the Complainant on numerous times, the last
time being the 27th day of June, 1958 at 419 Drivers Street,
Mobile, Alabama, and that from the Respondent's conduct, the
Complainant has reasonable apprehension that if she continued
to live with him, he would commit violence upon her person,
attended with danger to her life or health.

FOURTH: That to this marriage there have been born five
children, namely, Robert Joseph Potter, age eighteen years; Marie
Potter, age seventeen years; Carol Potter, age thirteen years;
James Potter, age eleven years, and Charles Potter, age eight;
and that the daughter, Carol, is with this Complainant and that
the other children are with the Respondent.

FIFTH: Complainant further shows that she is a suit person
to have the care, custody and control of said children, and that
the Respondent is not a fit, suitable and proper person to have
the care and custody and control of said children.

SIXTH: Complainant further shows that she has no property
or estate other than her earnings as a nurse's aide, and her in-
terest in the homestead, and that the Respondent is an able-bodied

Cont'd:
Bill of Complaint-
Re: Potter vs. Potter

owning farm equipment, two trucks and the twenty-acre farm with dwelling house thereon, held in joint tenancy with this Complainant, and that the Complainant is without funds to support said children or to pay for the costs and expenses of this proceeding, and that the Respondent is able to pay same.


Complainant further shows that she and the Respondent own the following property, i. e., the leasehold from the Fairhope Single Tax Corporation and dwelling house, with out-building and barn thereon, on the following described land, to-wit:

The South Half of the Southwest Quarter of
the Southwest Quarter of Section Eleven,
Township Six South, Range Two East, Baldwin
County, Alabama.

And that said land cannot be equally divided between Complainant and Respondent.

WHEREFORE, Complainant prays that due notice of this proceeding be given to the Respondent, requiring him to plead, answer or demur, and that on a final hearing of this cause, the Court will render a decree forever divorcing the Complainant and Respondent from the bonds of matrimony, giving her the care, custody and control of said minor children, namely, Robert Joseph Potter, Marie Potter, Carol Potter, James Potter and Charles Potter, ordering the Respondent to pay a reasonable sum for the support of said children, and Complainant's attorney's fee in this cause, and will further order, adjudge and decree that the parties' leasehold interest in the above described farm, together with the improvements thereon, be sold for division, and that the proceeds of the sale be divided between the parties, after the cost and expenses of sale be deducted therefrom.

And the Complainant prays for such other further or different relief as to Equity may seem meet.


E. G. RICKABY,
Solicitor for Complainant.

RECORDED *M.4332*

AGNES POTTER,

Complainant,

-VS-

ROBERT COLEMAN POTTER,

Respondent.

Received 16 day of July 1958
at 23 day of July 1958
served a copy of the within 10
Robert Coleman Potter

service on 23 July 58

TAYLOR WILKINS, Sheriff

By T. D. Leiser D. S.

at Fairhope Ala

Sheriff claims 20 miles at
Cents per mile Total \$ 7.00
TAYLOR WILKINS, Sheriff
Leiser Sr.
DEPUTY SHERIFF

BILL OF COMPLAINT

FILED

JUL 16 1958

ALICE L. DECK, Register

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

AGNES POTTER,)	
	*	
COMPLAINANT,)	IN THE CIRCUIT COURT OF BALDWIN
	*	
VS)	COUNTY, ALABAMA.
	*	
ROBERT COLEMAN POTTER,)	IN EQUITY
)	
RESPONDENT.)	NO. _____

Comes now Robert Coleman Potter, respondent in the above styled cause, and with leave of Court first had and obtained, amends the answer heretofore filed by him to read as follows:-

Comes now Robert Coleman Potter, respondent in the above styled cause, and for answer to the bill of complaint exhibited against him herein and each paragraph thereof, says as follows:-

1. Respondent admits the allegations of Paragraph One of said bill of complaint, except complainant's allegation that she is now a resident of Baldwin County, Alabama and states to the contrary that complainant is now a resident of Mobile County, Alabama.

2. Respondent admits the allegations of Paragraph Two of said bill of complaint.

3. Respondent expressly and emphatically denies the allegations of Paragraph Three of said bill of complaint and demands strict proof thereof. For further answer to said Paragraph Three respondent states that he has never at any time or place committed any act or acts of violence upon complainant, nor has he ever at any time or place given her any cause or reason whatsoever to fear him or to apprehend any such act of violence. Respondent states that on the contrary he has been a kind, loving, faithful and devoted husband and father.

4. Respondent admits the allegations of Paragraph Four of said bill of complaint.

5. Respondent expressly and emphatically denies the allegations of Paragraph Five of said bill of complaint and demands strict proof thereof. For further answer to said Paragraph Five of said bill of complaint respondent states that complainant deserted and abandoned him and their four minor children and her home with them for the sole and explicit purpose of CONTINUING an immoral, illicit and indecent affair with one EVERETT FICK, with whom she has committed adultery, since her marriage to respondent, and which adulterous acts have not been condoned by respondent in any way and that because she has abandoned her children and has committed adultery with another man she is neither fit nor proper to have the care, custody and control of said minor children. Respondent states further that he has a good home for his children, is caring for them properly and that he is the proper and fit person to have the care

custody and control of all five of his minor children.

6. Respondent denies the allegations of Paragraph Six of said bill of complaint and demands strict proof thereof. For further answer to said Paragraph Six respondent states that complainant is not in needs of funds with which to support his minor children as they are being supported fully and well cared for by him in the home which he has provided for them.

WHEREFORE, the premises considered, respondent prays that your Honors will dismiss complainant's bill of complaint at her own expense, that your Honors will award to him absolute custody of his five minor children, subject to complainant's right of reasonable visitation, and he prays for all such other, further or different relief to which he is entitled.

Robert C Patten

RESPONDENT

Subscribed and sworn to before me this the 11th. day of September, 1958.

Lowell R. Layden
Notary Public, Mobile County, Alabama.

MOORE AND SIMON

BY

Lowell R. Layden
SOLICITORS FOR THE RESPONDENT.

4332

RECORDED



4332

FILED
SEP 20 1958
ALICE J. DUCK, CLERK
REGISTER