

SUMMONS AND COMPLAINT

Moore Ptg. Co.

4593

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 RUTH STROMBERG, Inc. and as Executrix of the  
Estate of CHARLES J. STROMBERG, Deceased.

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 RUTH STROMBERG, Inc. and  
as Executrix of the Estate of CHARLES J. STROMBERG, Deceased Defendant.

by WILBUR HASKINS  
-----, Plaintiff.

Witness my hand this 28 day of May 1959

Deirdre J. Alcock, Clerk

The State of Alabama  
Baldwin County

CIRCUIT COURT

WILBUR HASKINS

Plaintiffs

vs.

RUTH STROMBERG, Ind. and as  
Executrix of the Estate of Charles  
J. Stromberg, Deceased.  
Defendants

Summons and Complaint

Filed May 28, 1959

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

May 28 1959

*Wilbur Haskins* Sheriff

I have executed this summons

this 19

by leaving a copy with

*Ind*

*Received by  
James Wain  
and S. W. Long  
at  
Jain*

*Paul W. Starnes*

Sheriff

Deputy Sheriff

WILBUR HASKINS,  
Complainant,  
VS.  
RUTH STROMBERG, individually,  
and as Executrix of the  
Estate of Charles J. Stromberg,  
Deceased,  
Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

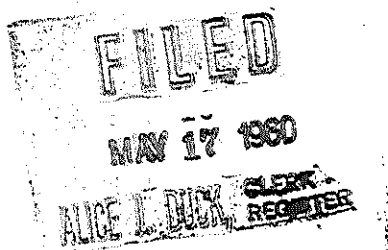
FINAL DECREE

This case, coming on to be heard on this date, which is the date heretofore set by the rules of this Court for calling the equity docket thereof, is submitted for a decree dismissing this said cause by agreement of the parties, acting through their respective attorneys; upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. This cause shall be and it is hereby dismissed with prejudice.
2. The costs of this proceeding are hereby taxed against the complainant, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 17th day of May, 1960.

*Wilbur M. Stace*  
\_\_\_\_\_  
Judge



272

WILBUR HASKINS,

Complainant,

VS.

RUTH STROMBERG, individually,  
and as Executrix of the Estate  
of Charles J. Stromberg, De-  
ceased,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

FILED

MAY 17 1960

ALICE J. DUBX, CLERK  
REGISTER

WILBUR HASKINS,

Complainant,

VS.

RUTH STROMBERG, Individually,  
and as Executrix of the Estate  
of CHARLES J. STROMBERG,  
Deceased,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 4522

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

Comes your Complainant, WILBUR HASKINS, and respectfully  
represents and shows unto your Honor and this Honorable Court  
the following facts as a basis for the relief hereinafter prayed:

1. That your complainant is a resident citizen of Baldwin  
County, Alabama, and is over the age of twenty-one years;
2. That the respondent, RUTH STROMBERG, is over the age of  
twenty-one years and is a resident of Baldwin County, Alabama, re-  
siding at Fairhope, Alabama;
3. That CHARLES J. STROMBERG was a resident of Baldwin  
County, Alabama, and Cook County, Illinois, during his lifetime,  
and that he departed this life on, to-wit: the 21st day of March,  
1959, while residing in Baldwin County, Alabama, and while owning  
real and personal property in Baldwin County, Alabama;  
to-wit:
4. That on or about/the 1st day of December, 1952, your  
complainant and the decedent, CHARLES J. STROMBERG, entered into  
and oral agreement, substantially as follows, to-wit: that com-  
plainant was to move onto a farm, consisting of approximately 350  
acres of land, belonging to said decedent in Baldwin County, Alabama,  
and to operate said farm in all respects as though it belonged to  
the complainant; and that said decedent, CHARLES J. STROMBERG, was  
to pay to the complainant, as compensation for the operation of said  
farm, the sum of \$250.00 per month and a bonus each year of Ten  
per centum (10%) of the net profits from the operation of said farm;
5. That in, to-wit: December, 1956, the aforesaid oral agree-  
ment was amended by oral agreement between your complainant and the  
said decedent, CHARLES J. STROMBERG, so that your complainant was  
to be paid a bonus each year of Twenty per centum (20%) of the net  
profits from the operation of said farm;

6. That pursuant to and in accordance with the terms of said oral agreement your complainant did move onto said farm in January, 1953, and has operated said farm under said oral agreement since that time, to the present time;

7. That in December, 1952, when your complainant entered into the oral agreement with the said decedent, the cattle, hogs, feed, tools and machinery on said farm was inventoried at about \$31,780.00; that, in the opinion of your complainant, the cattle, hogs, feed, tools and machinery and growing crops on said farm, all of which have been produced by the efforts of your complainant in and about the operation of said farm pursuant to the oral agreement hereinabove mentioned, will inventory at not less than \$80,000.00; that your complainant has not been paid any bonus for this increase in value, which represents profit;

8. That when your complainant took possession of said farm there were 212 head of cattle, inventoried at \$13,523.00; that at the present time there are 290 head of cattle, worth in the opinion of your complainant \$42,000.00; that when your complainant took possession of said farm there were 46 head of hogs worth \$960.00; and that, at the present time, there are 200 head of hogs, worth \$7,000.00, and, in addition, there are approximately 160 head of young pigs on said farm; that your complainant has not been paid his bonus on the foregoing hogs and cattle;

9. That, in December, 1958, we had ready for market 174 head of hogs, produced by your complainant on said farm; that because of income tax, the decedent did not want to sell these hogs in 1958; that said hogs were valued by the decedent at approximately, to-wit: \$3,350.00; that said hogs were sold in January and February, 1959, for approximately \$7,830.00; that your complainant has not been paid any bonus on the profit from the sale of these hogs;

10. That during the months of May, June and July, 1958, we bought 70 head of feeder steers, for approximately \$6,200.00; that said steers were ready for the market in December, 1958; that, because of the income tax, the decedent did not want to sell these steers in 1958; that your complainant agreed with the decedent that they not be sold at that time; that 47 head of said steers were sold

during the Spring of this year, 1959, for approximately \$8,600.00; that your complainant has not been paid any bonus on the profit from the sale of these steers;

11. That your complainant has 110 acres of corn with an excellent stand now growing on said farm; that in 1957 your complainant averaged 75 bushels of corn per acre on said farm; that in 1958 your complainant averaged 85 bushels of corn per acre on said farm; and that your complainant believes that, if no act of nature intervenes, he will average 100 bushels of corn per acre this year;

12. That your complainant has 25 acres of newly planted millet on said farm with an excellent stand;

13. That your complainant has 352 bales of hay in the barn, for feeding purposes, which was harvested this year, and on which he has been paid no bonus;

14. That your complainant is in the process of harvesting another hay crop, which will produce about 15 tons;

15. That your complainant has just finished harvesting 4,000 pounds of Rescue seed, worth about 20 cents per pound; that he has been paid no bonus on said rescue seed;

16. That your complainant has just harvested about 25 bushels of crimson clover seed which is worth about \$375.00; that he has been paid no bonus on said seed;

17. That your complainant has about 50 tons of ground ear corn, for feed purposes, in the silo on said farm; that he has been paid no bonus for the production of said corn;

18. That during the time your complainant has operated said farm, he has through scientific management and careful husbandry increased the productivity of the land at least one-third, which has enhanced the value of the land at least 20%; that he has not been paid any bonus for this increase in value;

19. That the respondent, RUTH STROMBERG, individually, and as Executrix of the Estate of CHARLES J. STROMBERG, deceased, has ordered your complainant to leave said farm immediately; that she has failed or refused to give your complainant an accounting or to pay him any bonus, which he has earned pursuant to the oral agreement hereinabove set forth;

20. Complainant avers that, if he is forced to leave said

farm at this time, before the crops which have already been planted are harvested and before the hogs and cattle which have been readied for market by and through his efforts are sold and before there has been an accounting between him and the respondent, RUTH STROMBERG, Individually, and as Executrix of the Estate of CHARLES J. STROMBERG, Deceased, he will suffer irreparable harm;

21. Complainant avers that he owns an interest in said farm, and particularly in its increased value due to his management, and in the hogs, cattle, tools, machinery, feed and growing crops on said farm based upon the oral contracts and agreements as aforesaid, and he now desires to have his interest ascertained and paid out of the assets of said farm, and, if necessary to that end, that upon ascertainment by the Court of the amount due him under said agreements, the property, or so much of it as may be necessary, be ordered sold to pay such amounts as this Honorable Court ascertains may be due your complainant;

22. Complainant further avers that he has employed to represent him and protect his interests TELFAIR J. MASHBURN, ESQ., whose name is signed to this bill of complaint; and that such attorney is entitled to receive compensation, to be taxed as a part of the costs in this cause;

23. That your complainant submits himself to the jurisdiction of this Honorable Court and offers to do equity in the premises.

WHEREFORE, THE PREMISES CONSIDERED, your complainant prays that this Honorable Court will take jurisdiction of this cause and will cause proper process to issue out of this Court directed to the said RUTH STROMBERG, Individually, and as Executrix of the Estate of CHARLES J. STROMBERG, Deceased, making her a party respondent hereto and requiring her to plead, answer or demur to this bill of complaint within the time and manner provided by law and the practice of this Honorable Court, and, in default thereof, that a decree pro confesso be rendered against her.

Your complainant further prays that on a final hearing hearing hereof your Honor will make and enter a decree ordering the respondent, individually, and in her capacity of Executrix of the Estate of CHARLES J. STROMBERG, Deceased, to give an accounting, full and complete, to the complainant and to this Honorable Court of the



profits from the operation of the farm of CHARLES J. STROMBERG, by the complainant, from December, 1952, to the present time, including the increase in value of the lands, and the increase in value, or the profit, in the cattle, hogs, growing crops, feed and hay on hand, and tools and machinery; that this Honorable Court will ascertain and determine, by reference before the Register if necessary and desirable by the Court, the amount of net profit earned on said farm by the complainant during his operations of said farm and the amount, or amounts, owed to the complainant by the respondent under his bonus agreement as set forth in paragraphs "4" and "5" hereof; that your Honor will enjoin the respondent from removing, or attempting to remove, the complainant from his possession of said farm until the crops which he has planted have been harvested<sup>and sold,</sup> and the hogs and cattle sold and his bonus determined in accordance with the agreements hereinabove set forth; ordering a reference to be held to determine a reasonable fee to be paid to complainant's attorney of record, the same to be taxed as a part of the cost of this cause; and complainant prays for such other, further, different or general relief as in equity and good conscience he may be entitled to receive, and, as in duty bound, he will ever pray, etc.

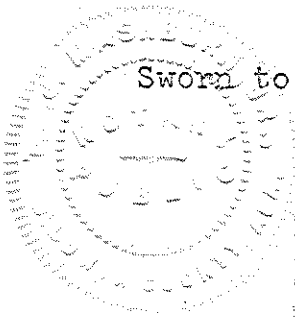
Julius A. Maddox  
SOLICITOR FOR COMPLAINANT.

STATE OF ALABAMA,     |  
                                  |  
COUNTY OF BALDWIN.    |

Before me, the undersigned authority, personally appeared WILBUR HASKINS, who is known to me and who, being by me first duly and legally sworn, deposes and says, on oath: "I have read the allegations of the foregoing bill of complaint and they are true and correct according to the best of my knowledge, information and belief." Further deponent says not.

Wilbur D. Haskins

Sworn to and subscribed before me this the 28th day of May, 1959.



**FILED**

MAY 28 1959

ALICE J. DICK, CLERK REGISTER

J. A. Maddox  
NOTARY PUBLIC, BALDWIN COUNTY, ALA.

WILBUR HASKINS, )  
 )  
Complainant, )  
VS. )  
 )  
RUTH STROMBERG, individually, )  
and as Executrix of the )  
Estate of CHARLES J. STROMBERG, )  
Deceased, )  
 )  
Respondent. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

DEMURRER

Now comes Ruth Stromberg, individually, and as Executrix of the Estate of Charles J. Stromberg, Deceased, and for demurrer to the Bill of Complaint heretofore filed in this cause, says:

1. There is no equity in the Bill of Complaint.

FILED

7-30-59

ALICE L. DUCK, CLERK  
REGISTER

Ernest M. Bailey

J. B. Blackburn

Attorneys for said respondent

10992  
DEMURRER

WILBUR HASKINS,

Complainant,

VS.

RUTH STROMBERG, individually,  
and as Executrix of the Estate  
of CHARLES J. STROMBERG, DECEASED,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

FILED  
7-29-57  
ALICE I. DICK, CLERK  
REGISTER

WILBUR HASKINS, )  
 )  
 Complainant, )  
 VS. )  
 )  
 RUTH STROMBERG, individually, )  
 and as Executrix of the )  
 Estate of Charles J. Stromberg, )  
 Deceased, )  
 )  
 Respondents. )

IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA  
 IN EQUITY

AMENDED DEMURRER

Now come the respondents and after having obtained leave of court to amend the demurrer heretofore filed by them, amend their demurrer to read as follows:

I.

Now come the respondents, jointly and each of them severally, and demur to the bill of complaint filed in this cause and as grounds of such demurrer assign, separately and severally, the following:.

1. There is no equity in the bill of complaint.
2. No facts are alleged on which the relief sought can be granted.
3. It affirmatively appears that the complainant has a full, complete and adequate remedy at law.
4. The bill of complaint is multifarious.
5. The allegations of the bill of complaint are conclusions of the pleader.
6. The allegations of the bill of complaint are vague, indefinite and uncertain.
7. No facts are alleged to show that the complainant has filed a claim against the Estate of Charles J. Stromberg, Deceased, as required by Title 61, Section 210 of the 1940 Code of Alabama.
8. No facts are alleged to show that the complainant has filed a claim against the Estate of Charles J. Stromberg, Deceased, as required by Title 61, Section 211 of the 1940 Code of Alabama.
9. It affirmatively appears that the complainant's alleged cause of action is barred by the statute of limitations of three years.

10. It affirmatively appears that the complainant's alleged cause of action is barred by the statute of limitations of six years.

11. It affirmatively appears that the complainant is guilty of laches.

12. The alleged oral agreement between the complainant and the late Charles J. Stromberg is not set out in the bill of complaint.

13. No facts are alleged to show the legal effect of the alleged agreement between the complainant and the late Charles J. Stromberg, along with facts showing the respondents' obligations thereunder.

14. No facts are alleged to show when the amounts claimed by the complainant became due.

15. No facts are alleged to show that the bonus referred to in the bill of complaint was intended to include enhanced value of the real property belonging to the late Charles J. Stromberg.

16. No facts are alleged to show that "net profits," as alleged in the agreement, was intended to include the enhanced value of lands belonging to the late Charles J. Stromberg.

17. No facts are alleged to show that the respondent, Ruth Stromberg, is liable to the complainant in any way.

18. No facts are alleged to show that the respondent, Ruth Stromberg, entered into any agreement or contract with the complainant.

19. No facts are alleged to show that the respondents or either of them are liable for attorney's fees, as claimed in the bill of complaint.

## II.

Now come the respondents, jointly and each of them severally, and demur to that aspect of the bill of complaint in which and by which the complainant is seeking an accounting and as grounds of such demurrer assign, separately and severally, grounds Numbered 1 through 19, both inclusive, which are set out above,

just as though each said ground was specifically rewritten here.

*Ernest M. Bailey*  
Ernest M. Bailey

*J. B. Blackburn*  
J. B. Blackburn

**FILED**  
DEC 21 1950  
ALICE L. DUCK, CLERK  
REGISTER

4593

WILBUR HASKINS,

Complainant,

VS.

RUTH STROMBERG, individually, and  
as Executrix of the Estate of  
Charles J. Stromberg, Deceased,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

4593

FILED  
DEC 21 1950  
ALICE J. DUCK, CLERK, REGISTER