

4820

CONRAD ALBRIZIO,  
Appellant-Plaintiff,  
VS.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

NANCY SELDEN WRIGHT, as Executrix  
of the Last Will and Testament of  
IMOGEN I. ALBRIZIO, DECEASED,  
Appellee-Defendant.

ORDER DISMISSING APPEAL

This cause coming on to be heard on this date by consent of the parties hereto is submitted on the appellee-defendant's motion to dismiss the attempted appeal heretofore filed in this cause, and it appearing to the Court that the Probate Court of Baldwin County, Alabama, entered an order on December 16, 1959, denying the claim of Conrad A. Albrizio, the appellant-plaintiff, against the Estate of Imogen I. Albrizio; and it further appearing to the Court that the said appellant-plaintiff, nor anyone for him, has failed to file security for costs for said appeal, as required by Section 782, Title 7 of the 1940 Code of Alabama; and that said attempted appeal is abortive and the Court is of the opinion that the said appeal should be dismissed.

It is, therefore, ORDERED AND ADJUDGED by the Court that the appellee-defendant's motion to dismiss appeal herein be and it is hereby granted and that the plaintiff-appellant's attempted appeal be and it is hereby dismissed.

It is further ORDERED AND ADJUDGED by the Court that the costs of the said purported appeal are hereby taxed against the appellant-plaintiff, Conrad A. Albrizio, for which execution may issue.

ORDERED AND ADJUDGED on this the 11th day of April, 1960.

*Hubert M. Steele*  
Judge

4820

ORDER DISMISSING APPEAL

CONRAD ALBRIZIO,

Appellant-Plaintiff,

VS.

NANCY SELDEN WRIGHT, as Executrix  
of the Last Will and Testament of  
IMOGEN I. ALBRIZIO, DECEASED,

Appellee-Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

**FILED**  
APR 11 1960  
ALICE J. DUCK, CLERK  
REGISTER

CONRAD ALBRIZIO, )  
 Appellant-Plaintiff, ) IN THE CIRCUIT COURT OF  
 vs. )  
 BALDWIN COUNTY, ALABAMA  
 NANCY SELDEN WRIGHT, as Executrix )  
 of the Last Will and Testament of )  
 IMOGEN I. ALBRIZIO, Deceased, ) 4820  
 Appellee-Defendant. )

MOTION TO DISMISS APPEAL:

Comes Nancy Selden Wright as Executrix of the Last Will and Testament of Imogen I. Albrizio, Deceased, and objects to trial in this court and moves the court for a discontinuance as to the claim of Conrad Albrizio and for a dismissal of the purported appeal of Conrad Albrizio from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio and as grounds therefor sets down and assigns the following separate and several grounds, to-wit:

1. The judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio was rendered in said court on December 16, 1959, and no appeal was or has been taken from said judgment within thirty days after the rendition of said judgment in manner and form provided by law.
2. No appeal herein was or has been perfected in manner and form provided by law.
3. No appeal herein was or has been perfected within the time allowed by law.
4. No appeal from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio was perfected by anyone giving security for the costs of such appeal, approved by the Judge of Probate, as required by law.
5. No appeal bond, Supersedeas Bond or other security for costs was filed by or for Conrad Albrizio for appeal from the judgment of the Probate Court of Baldwin County, Alabama, and the attempted or purported appeal from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio is abortive and was not taken or made in the manner and within the

time provided by law.

6. To effect an appeal from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio either Conrad Albrizio, or someone for him, must have given security for the costs of such appeal, to be approved by the Judge of Probate of Baldwin County, Alabama, and this was not done.

7. To effect an appeal from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio either Conrad Albrizio, or someone for him, must have given security for the costs of such appeal, to be approved by the Judge of Probate of Baldwin County, Alabama, and no such security for costs was given.

8. To effect an appeal from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio either Conrad Albrizio, or someone for him, must have given security for the costs of such appeal, to be approved by the Judge of Probate of Baldwin County, Alabama, and the Circuit Court of Baldwin County, Alabama, is therefore without jurisdiction to hear or determine said claim or suit thereon or to take any further action in this proceeding.

9. The Circuit Court of Baldwin County, Alabama, is without jurisdiction of the claim of Conrad Albrizio or any suit thereon or in connection therewith for that no valid appeal has been made from the judgment of the Probate Court of Baldwin County, Alabama, denying said claim.

10. The giving of security for costs to effect an appeal from the judgment of the Probate Court of Baldwin County, Alabama, denying the claim of Conrad Albrizio to the Circuit Court of Baldwin County, Alabama, is jurisdictional and such security for costs not having been given a discontinuance has occurred, or has been worked, as to the asserted claim of Conrad Albrizio.

FILED

FEB 18 1960

ALICE J. DUCK, Register

SULLIVAN & CAMERON

and

J. B. BLACKBURN,  
Attorneys for said Executrix,

By: 

IN THE MATTER OF THE ESTATE OF ) IN THE PROBATE COURT OF  
 IMOGEN I. ALBRIZIO, DECEASED ) BALDWIN COUNTY, ALABAMA

CLAIM OF CONRAD A. ALBRIZIO

Comes now Conrad A. Albrizio, widower of said decedent, and who is over the age of twenty-one (21) years and resides in Foley, Baldwin County, Alabama, and makes and files the following separate and several claims against the estate of said decedent, that is to say:

1. Claimant claims the sum of Eight Hundred Thirty-Seven and 25/100 Dollars (\$837.25), with interest thereon from, to-wit, October 14, 1958, for monies advanced by claimant for the payment of the invoice of Roche Undertaking Company, Mobile, Alabama, for funeral expenses of said decedent, which sum has never been paid to the claimant, and all of which is justly due and owing and the property of the claimant, and there are no credits against the same.

2. Claimant claims the sum of One Hundred Forty and no/100 Dollars (\$140.00) with interest thereon from, to-wit, October 10, 1958 and October 22, 1958, respectively, for monies paid to R. Spurway (\$42.00) and Ann Snyder (\$98.00), both of whom were trained nurses, for services rendered by each of them, as such, to the said decedent during her last illness.

3. Claimant claims the sum of Six Thousand Dollars (\$6,000.00) with interest thereon from, to-wit, May 9, 1945, being the claimant's one-half of proceeds of the sale of a house and lot in Baton Rouge, Louisiana, which was sold to a Mr. LaMar, and which proceeds were retained by the said decedent; claimant claims that he is entitled to one-half of such proceeds as the husband of said decedent.

4. Claimant claims the sum of Twenty Thousand One Hundred Eighty and 84/100 Dollars (\$20,180.84) for monies paid by the claimant between the period March, 1950 and May, 1958 in the improvement of

STATE OF ALABAMA, BALDWIN COUNTY  
 Filed May 18, 1959  
 Recorded book 2 page 105  
 W. P. S. ...  
 Judge of Probate  
 MS

homestead properties known as "Tidewater" situated at Bon Secour in Baldwin County, Alabama, which improvements were placed on land to which the said decedent held the legal title; claimant claims an equitable lien on said land and the improvements for said expenditures with interest thereon, all of which is justly due and owing to the claimant after allowing all credits against the same.

5. Claimant claims the sum of Three Thousand Four Hundred Twenty and no/100 Dollars (\$3,420.00) with interest thereon from February, 1948, for monies expended by claimant in the construction and improvement of lands at Shell Banks in Baldwin County, Alabama, legal title to the land being held by the decedent, which land was subsequently exchanged by claimant and decedent to George C. Meyer, or to one of his corporations, for said lots at Gulf Shores, which were subsequently sold and the proceeds thereof collected by the decedent and were unaccounted for; claimant will impress said proceeds with a trust and equitable lien, and claims an accounting therefor, all of which is justly due and owing to the claimant and remains unpaid after allowing all just credits against the same.

6. Claimant claims the sum of Fifty Thousand Dollars (\$50,000.00) damages for the breach of a contract made by the said decedent with the claimant in which the decedent, in substance, agreed to devise to the claimant the absolute title in fee simple to the homestead property situated at Bon Secour in Baldwin County, Alabama known as "Tidewater", together with the contents thereof, and a lot of land at Gulf Shores known as Lot No. 13, Unit 6 of Gulf Shores, Alabama, which properties were acquired with funds belonging to claimant (with the exception of approximately Three Thousand Dollars (\$3,000.00) furnished for the purpose by the decedent); claimant is informed by attorneys representing the estate of said decedent that under the will of said decedent, neither of said properties will be vested in the claimant absolutely or in fee simple, but that on the contrary

the properties will be sold to pay debts of said estate, which efforts the claimant will resist as being contrary to said agreement between the claimant and said decedent and a breach of duty by said decedent and by said attorneys to this claimant, and contrary to law.

Claimant presents each of the foregoing claims and files the same in the office of the said Judge of Probate, this statement of said claims being verified by the oath of the claimant who has knowledge of the correctness thereof; the amounts claimed above being justly due to the claimant after allowing all proper credits.

Thomas D. Allinger  
Claimant

SUBSCRIBED and SWORN TO before

me this 15 day of May, 1959.

Marie D. W. W. W.  
Notary Public, Mobile County, Alabama.


ESTATE OF \* IN THE PROBATE COURT OF  
IMOGEN I. ALBRIZIO, \* BALDWIN COUNTY, ALABAMA,  
DECEASED. \* Case No. 4100

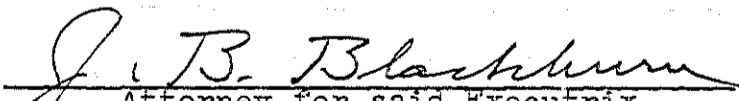
APPLICATION BY EXECUTRIX FOR HEARING OF DISPUTED  
CLAIM OF CONRAD A. ALBRIZIO

TO THE HONORABLE W. R. STUART, JUDGE OF SAID COURT:

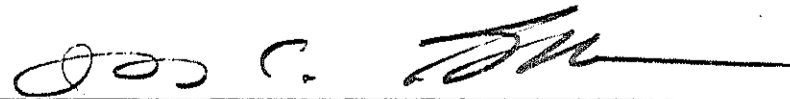
Now comes Nancy Selden Wright, Executrix of the Estate of Imogen I. Albrizio, Deceased, and respectfully shows unto your Honor that Conrad A. Albrizio heretofore filed a claim in writing against the Estate of Imogen I. Albrizio in the Probate Court Records of Baldwin County, Alabama, said claim being dated May 15, 1959, and that she, as such Executrix, did on June 8, 1959, notify the said Conrad A. Albrizio, in writing, that said claim so filed by him, and each and every item thereof, was denied and disputed in whole.

WHEREFORE, the said Nancy Selden Wright, as such Executrix, does hereby make application to your Honor to set a day to hear and pass on the validity of said claim of Conrad A. Albrizio, pursuant to the provisions of Section 216, Title 61 of the Code of Alabama, as amended.

  
Executrix of the Estate of Imogen I.  
Albrizio, Deceased.

  
Attorney for said Executrix

SULLIVAN & CAMERON,  
Attorneys for said Executrix,

By 



ESTATE OF  
IMOGEN I. ALBRIZIO,  
Deceased.

) IN THE PROBATE COURT OF  
) BALDWIN COUNTY, ALABAMA  
) NO. 4100.

NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION:

TO: CONRAD A. ALBRIZIO AND THOMAS E. TWITTY, ATTORNEY AT LAW,  
MERCHANTS NATIONAL BANK BUILDING, MOBILE, ALABAMA, HIS  
ATTORNEY.

Please take notice that at 9:30 o'clock A. M. on  
Wednesday, October 7, 1959, at the office of Louise Dusenbury,  
Court Reporter, at the Courthouse in Bay Minette, Alabama, the  
Executrix of the Estate of Imogen I. Albrizio desires to and  
will take the deposition of Conrad A. Albrizio, the claimant in  
this cause, such deposition being upon oral examination and being  
taken pursuant to the statutes applicable to the taking of the  
same before Louise Dusenbury, an officer authorized to administer  
oath by the laws of the State of Alabama, and the said Conrad A.  
Albrizio is requested to have with him at said time and place all  
paper writings, documents or other instruments pertinent to his  
claim against this said estate.

Dated this 8<sup>th</sup> day of September, 1959.

SULLIVAN & CAMERON

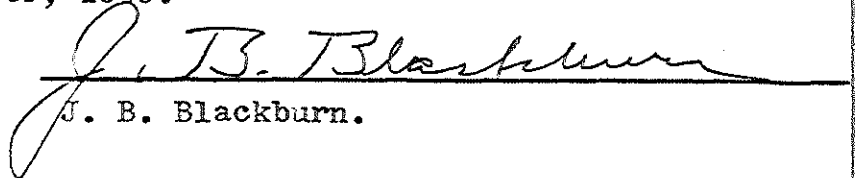
and

J. B. BLACKBURN,  
Attorneys for said Executrix,

By: J. B. Blackburn

The address of Conrad A. Albrizio  
is 814 Dauphine Street, New  
Orleans, Louisiana.

I, J. B. Blackburn, one of the attorneys for the Executrix of the Estate of Imogen I. Albrizio, do hereby certify that on the 9th day of September, 1959, a copy of the above and foregoing notice was served on Thomas E. Twitty, the Attorney of record for the claimant, by mailing a copy thereof with postage prepaid in the correct amount, to the address of such attorney in Mobile, Alabama. I further certify that a copy of the above and foregoing notice was served on Conrad A. Albrizio by mailing a copy thereof with postage prepaid in the correct amount, to the address of said Conrad A. Albrizio in New Orleans, Louisiana, on the 9th day of September, 1959.

  
J. B. Blackburn.

ESTATE OF  
IMOGEN I. ALBRIZIO,  
Deceased.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA  
NO. 4100.

ORDER SETTING DATE FOR HEARING OF DISPUTED CLAIM  
OF CONRAD A. ALBRIZIO:

Nancy Selden Wright, Executrix of the Estate of Imogen I. Albrizio, having heretofore made application to the court to set a date to hear and pass on the validity of a claim heretofore filed by Conrad A. Albrizio, it is, therefore, ORDERED, ADJUDGED AND DECREED by the court that the hearing of the claim of the said Conrad A. Albrizio be, and it hereby is, set for hearing on November 24, 1959, at ten o'clock A. M.

It is further ordered that notice of the date set for hearing the said disputed claim be given to Conrad A. Albrizio and to Thomas E. Twitty, Attorney at Law, who is the attorney representing the said Conrad A. Albrizio.

ORDERED, ADJUDGED AND DECREED on this the 30th day of October, 1959.

  
\_\_\_\_\_  
Probate Judge.  Chief Clerk

ESTATE OF  
IMOGEN I. ALBRIZIO,  
Deceased.

)  
)  
)

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA  
NO. 4100.

ORDER OF CONTINUANCE

This being the day heretofore set for hearing the disputed claim of Conrad A. Albrizio, and it appearing to the Court that the Executrix of the Estate of Imogen I. Albrizio desires a continuance of said hearing, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the hearing of the claim of the said Conrad A. Albrizio be, and it hereby is, continued until December 16, 1959, at ten o'clock A. M.

ORDERED, ADJUDGED AND DECREED on this the 24th day of November, 1959.

  
Probate Judge.

By:  Chief Clerk

ESTATE OF  
IMOGEN I. ALBRIZIO,  
DECEASED.

) IN THE PROBATE COURT OF  
)  
) BALDWIN COUNTY, ALABAMA  
)  
) NO. 4100

ORDER DENYING CLAIM OF CONRAD A. ALBRIZIO

This cause coming on to be heard on this date is submitted on the claim heretofore filed in this cause by Conrad A. Albrizio on, to-wit, the 18th day of May, 1959, which claim has been disputed in writing by Nancy Selden Wright, the executrix of the said estate, on, to-wit, June 8, 1959, who then filed her written application to have a date set by this court to pass on the validity of said claim, which matter was set for November 24, 1959, and on that date continued to December 16, 1959, at ten o'clock A. M., at which hearing the claimant, Conrad A. Albrizio, was present and represented by counsel, and at which hearing there was also present the executrix of this said estate and her attorneys. After hearing the said matter and the testimony of the claimant, Conrad A. Albrizio, the court is of the opinion and finds that there is no evidence to support the said claim; upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. The said claim of Conrad A. Albrizio, which was heretofore filed in this cause on, to-wit, May 18, 1959, and which has been disputed by the executrix of this said estate, shall be and it is hereby denied and disallowed in the whole.

2. The costs of this proceeding are hereby taxed against the said claimant, Conrad A. Albrizio.

ORDERED, ADJUDGED AND DECREED on this the 16th day of December, 1959.

  
\_\_\_\_\_  
Probate Judge

ORDER DENYING CLAIM OF CONRAD A.  
ALBRIZIO.

ESTATE OF  
IMOGEN I. ALBRIZIO, DECEASED

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

NO. 4100

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ESTATE OF ) IN THE PROBATE COURT OF  
IMOGEN I. ALBRIZIO, ) BALDWIN COUNTY, ALABAMA,  
DECEASED. ) NO. 4100

Now comes Conrad A. Albrizio, Claimant, who has heretofore filed a claim against the estate of Imogen I. Albrizio, deceased, which said claim was contested by Nancy Selden Wright, the Executrix of the said estate and this court did pass on the validity of said claim and rendered a decree on the 16th day of December, 1959, dis-allowing the claim in total. Your Claimant herewith files this his appeal from the verdict and judgment of the court dis-allowing his said claim, and does hereby appeal to the Circuit Court of Baldwin County, Alabama, on said judgment.

WHEREFORE, Conrad A. Albrizio, Claimant, prays that Your Honor will forward the records of this cause insofar as the same may be required by law, to the Circuit Court of Baldwin County, Alabama.

Wilters & Brantley

BY: 

Attorney for Conrad A. Albrizio,  
Claimant

Comes now Conrad A. Albrizio, Plaintiff and Claimant, in the above styled cause, and demands a trial by jury.


Wilters & Brantley

BY: 

Attorney for Plaintiff-Claimant

I, James R. Owen, one of the attorneys for the estate of Imogen I. Albrizio, deceased, do hereby accept service of the notice of the filing of the above appeal.

Witness my hand this 30<sup>th</sup> day of December, 1959.

  
James R. Owen

STATE OF ALABAMA, BALDWIN COUNTY

Filed 12-30-59 M

Recorded \_\_\_\_\_ book \_\_\_\_\_ page \_\_\_\_\_

W. R. Stewart  
Judge of Probate  
HP

ESTATE OF  
IMOGEN I. ALBRIZIO,  
Deceased.

) IN THE PROBATE COURT OF  
)  
) BALDWIN COUNTY, ALABAMA  
)

CERTIFICATE:

I, W. R. Stuart, Judge of the Probate Court of Baldwin County, Alabama, do hereby certify that the following are all of the instruments filed and proceedings had on the claim of Conrad A. Albrizio, as the same appear of record in my office:

1. Claim of Conrad A. Albrizio, sworn to on May 15, 1959, and filed on May 18, 1959, and recorded in Claim Book 2 at page 105.
2. Application by Executrix for hearing of disputed claim of Conrad A. Albrizio.
3. Notice to take deposition upon oral examination, dated September 8, 1959,
4. Order setting date for hearing of disputed claim of Conrad A. Albrizio, dated October 30, 1959.
5. Order of continuance dated November 24, 1959.
6. Order denying claim of Conrad A. Albrizio, dated December 16, 1959.
7. Appeal from the verdict and judgment of the Probate Court disallowing the claim of Conrad A. Albrizio filed December 30, 1959.

I do hereby certify that the above instruments are all instruments filed in connection with the claim of Conrad A. Albrizio; that Conrad A. Albrizio, nor his attorneys have filed security for costs in connection with this appeal and that all of said instruments are hereby certified and forwarded to the Circuit Court of Baldwin County, Alabama.

Dated this 19<sup>th</sup> day of January, 1960.

*W. R. Stuart*

Probate Judge.