(1391)

DIVORCE DECREE

Moore Printing Co., Bay Minette, Ala.

THE STATE OF ALABAMA, BALDWIN COUNTY

CIRCUIT COURT, IN EQUITY

FRANK BERNHARDT Complainant

VS.

EUNICE BERNHARDT Respondent

This cause coming on to be heard was submitted upon Bill of Complaint, Decree Pro Confesso

XXCross-Bill and Testimony as noted by the Register, and upon consideration thereof, the Court is of the opinion that the Cross-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 Eunice Bernhardt

is forever divorced from the said Frank Bernhardt

for and on account of Habitual Drunkenness

The said Eunice Bernhardt is hereby awarded the care, custody and control of her daughter, Nancy Elaine Bernhardt

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 the payment of the cost of this suit.

It is further ordered that Eunice Bernhardt

the Cross-Complainant pay the cost herein to be taxed, for which execution may issue.

This 7th day of February, 1946

L. W. Stark

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. 1391 Page

The State of Alabama
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY

FRANK BERNHARDT

vs. Complainant

EUNICE BERNHARDT

Respondent

DIVORCE DECREE

Filed this 7th day of

Feb, 1946

R. S. Busch
Register

FRANK BERNHARDT	)	IN THE CIRCUIT COURT OF
Complainant,	)	
VS.	)	BALDWIN COUNTY, ALABAMA.
EUNICE BERNHARDT	)	
Respondent.	)	IN EQUITY.

Comes the Respondent in the above styled cause and for answer to the Bill of Complaint filed in said cause and to each and every paragraph thereof, says:

1. That she admits that both she and the Complainant are over twenty-one years of age and that the Complainant is a resident of Baldwin County, Alabama. The Respondent denies that she is a resident of Baldwin County, Alabama and says that she was at the time of the filing of this Bill of Complaintin this cause and now is a resident of Castleberry, Alabama.

2. The Respondent admits that she and the Complainant were married at Pascagoula, Mississippi, on June 2, 1942 and that they lived together as husband and wife until July 1, 1945. Respondent says that in truth and fact they lived together as man and wife until about July 20, 1945 when she was compelled to leave the Complainant and live separate and apart from him on account of matters hereinafter set out.

3. The Respondent denies that on July 1, 1945 or at any time prior thereto that she committed the act of adultery with anyone and she demands strict proof of the allegations of this paragraph of the Bill of Complaint.

4. The Respondent admits that there was born to the marriage between the Complainant and Respondent one child whose name is Nancy Elaine Bernhardt, who is now two years old; the Respondent denies that she is not a suitable, fit or proper person to have the custody of said child and she denies that the Complainant is fully capable of rearing said child.

5. For further answer to the Bill of Complaint the Respondent says that the Complainant has become addicted after marriage to habitual drunkenness and on account of such drunkenness she was compelled to leave him on July 20, 1945 and live separate and apart from him. That when she left the said Complainant she carried their minor child, Nancy Elaine Bernhardt, who is a girl two years of age, with her and she has been living with her and in her care, custody and control since that time. The Respondent further says that she is a fit and proper person to have the care, custody and control of said minor child and that she is now properly looking after and caring for such child; that the Complainant is not now supporting such child. The Respondent further says that the Complainant is a habitual drunkard and when drinking he is subject to fits of violent temper; that on July 4, 1944, while he was about drunk, he threatened to kill the Respondent. That on account of such condition and temperament the Complainant is not a fit and proper person to have the care, custody and control of their minor child and her life or health would be in danger if he had control of her. The Respondent says that she does not own any property of any kind, nature or description and that she does not have any income sufridient for her support or for the support of such minor child; that the Complainant owns a home in Fairhope, Alabama, on which there is a small sum now due and that she and the Complainant have acquired furniture worth about $1,000.00 which the Complainant has kept and refuses to turn over to her. The Respondent says further that the Complainant is an able bodied man and is now earning about $250.00 a month. The Respondent says further that she has employed Hybart & Chason of Bay Minette, Alabama,

as her Solicitors to defend the suit filed by the Complainant in this cause and to prosecute her cross-complaint and that she is unable to pay a reasonable Solicitors' fee for such services.

Wherefore the Respondent prays that your Honor order a reference to determine a reasonable amount to be paid by said Complainant to your Respondent as Alimony pendente lite and a reasonable amount to be paid by such Complainant to Hybart & Chason as Attorneys' fees pendente lite and that upon a final hearing of this cause that your H onor will order and decree that said Complainant pay the Respondent such alimony as your Honor may deem proper for the support of the Respondent and that your Honor will order that the Complainant pay such amount as your Honor may deem proper for the support of said minor child and that your Honor will order and decree that said Complainant pay the said firm of Hybart & Chason a reasonable Attorneys' fee for their services in this cause and that your Honor will further order and decree that the Respondent be awarded the care, custody and control of the said Nancy Elaine Bernhardt. The Respondent further prays that your Honor will order and decree that the bonds of matrimony heretofore existing between the Complainant and Respondent be dissolved. Your Respondent further prays for such other, further, different and general relief to which she may be entitled and as in duty bound she will ever pray.

Hybart & Chason

Solicitors for Respondent.

STATE OF ALABAMA,
BALDWIN COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA, - GREETINGS:

WE COMMAND YOU that you summon EUNICE BERNHARDT to be and appear before the Judge of the Circuit Court of Baldwin County, Alabama, exercising Chancery Jurisdiction, within thirty days after the service of summons, and there to plead, answer or demur, without oath, to a bill of complaint, lately exhibited by FRANK BERNHARDT, against the said EUNICE BERNHARDT, and further to do and perform what the said Judge shall order and direct in that behalf, and this the Respondent shall in no wise omit under penalty of the law. And we further command that you return this writ with your execution thereon, to our said Court immediately upon the execution thereof.

WITNESS, R. S. DUCK, Register of said Court, this the 27 day of August, 1945.

R. S. Duck
Register

- - - - - - - - - - -

FRANK BERNHARDT,	)	
COMPLAINANT,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA,
EUNICE BERNHARDT,	)	IN EQUITY.
RESPONDENT.	)	

TO HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY:

Now comes your Complainant, FRANK BERNHARDT, and humbly complaining against the Respondent, EUNICE BERNHARDT, respectfully represents and shows unto your Honor and this Honorable Court as follows:

1.

That your Complainant and the Respondent are both bona fide residents of Baldwin County, Alabama, and over twenty-one years of age;

2.

That your Complainant and the Respondent married at Pascagoula, Mississippi, on June 2, 1942, and lived together as husband and wife until July 1, 1945;

3.

That on to-wit, July 1, 1945, and at various times prior thereto, the Respondent committed acts of adultry with various parties, whose names are not known to the Complainant; that the said acts of adultry were without the consent and approval of the Complainant and that he has not condoned said acts.

That there was born to the marriage between your Complainant and the Respondent, one child, Nancy Elaine Bernhardt, now two years old; that the Respondent is not a suitable, fit, or proper person to have the custody of the said child; that the Complainant has a home at Fairhope, and is fully capable of caring for and rearing the said child.

WHEREFORE, the premises considered, Complainant prays that your Honor will, by proper process, make the said Eunice Bernhardt party Respondent to this cause of action, requiring her to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainant further prays that your Honor will, upon the hearing hereof, enter an order and decree granting to him an absolute decree of divorce, forever barring the bonds of matrimony existing between him and the Respondent; and that he be awarded the care, custody and control of the said minor child, Nancy Elaine Bernhardt; Complainant prays for such other, further, different or general relief as he may be in equity and good conscience entitled to receive, and as in duty bound he will ever pray.

BEEBE & HALL
By: [signature]
Solicitors for the Complainant.

The Respondent's Address:

c/o Mrs. L. W. Green,
Castlebury, Alabama.

Original 1391

Executed this 28th day
of August 1945, by serving copy
of the within Summons on
Eunice Bernhardt

W. A. Moore

W. A. Moore, Sheriff
Conecuh County

Frank Bernhardt
vs
Eunice Bernhardt

Summons and Complaint

Filed Aug 28, 1945

R. D. Wood
Clerk

FRANK BERNHARDT,	)	
Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA.
EUNICE BERNHARDT,	)	IN EQUITY.
Respondent.	)	

Comes the Respondent in the above styled cause and demurs to the Complaint filed in said cause and each and every paragraph thereof, separately and severally, and assigns the following ground, viz:-

1. That said Complaint does not state a cause of action.

As to that phase of the Bill of Complaint as set forth in paragraph three which alleges that on to-wit; July 1, 1945, and at various times prior thereto, the Respondent committed acts of adultery with various parties, whose names are not known to the Complainant and that said acts of adultery were without the consent and approval of the Complainant and that he has not condoned said acts, the Respondent demurs and assigns the following grounds, viz:-

2. That said allegations are vague and indefinite.

3. That said allegations are the conclusion of the pleader.

4. That it is not alleged with sufficient certainty when said acts of adultery were committed.

5. That it is not alleged where said acts of adultery were committed or that such fact was unknown to the Complainant.

6. That it is not alleged that the Complainant made any effort to learn the names of the various parties with whom the Respondent is supposed to have committed the act of adultery.

7. That it affirmatively appears that said acts of adultery were committed while the Complainant and Respondent were living together as man and wife and it is not alleged that the

Complainant did not have knowledge that such acts of adultery were being committed.

8. For aught appearing the Complainant lived with the Respondent as man and wife after he knew that she had committed such acts of adultery.

Hubard & Hanson
Solicitors for Respondent.

ORAL DEPOSITION

Printed by The Baldwin Times, Bay Minette.

THE STATE OF ALABAMA,
Baldwin County.

Circuit Court of Baldwin County, Alabama
(In Equity)

FRANK BERNHARDT Complainant

VS.

EUNICE BERNHARDT Respondent

I, Evelyn Nelson

as [redacted] Commissioner

have called and caused to come before me Eunice Bernhardt and Mrs. Charles Lowell

witness es named in the Requirement for Oral Examination, on the 4th day of February 1946, at the office of Hybart & Chason in Bay Minette, Alabama, and having first sworn said Witness es to speak the truth, the whole truth, and nothing but the truth, the said Eunice Bernhardt and Mrs. Charles Lowell doth depose and say as follows:

TESTIMONY OF EUNICE BERNHARDT

My name is Eunice Bernhardt. I am the Respondent and Cross-Complainant in that suit for Divorce filed by Frank Bernhardt in the Circuit Court of Baldwin County, Alabama, In Equity. Both Frank Bernhardt and I are over the age of twenty-one years. We married at Pascagoula, Mississippi on June 2, 1942 and we lived together as man and wife until July 20, 1945 at which time I was compelled to leave him and I have not lived with him as his wife since that time. Frank Bernhardt became addicted after marriage to Habitual Drunkenness and while drunk he was a violent and dangerous man. On July 4, 1944 he threatened to kill me and did commit actual violence on my person. At the time we married he drank very little intoxicating liquor but he steadily grew worse and this situation became such that on July 20, 1945 I was unable to live with him longer. There was born of our marriage a girl named Nancy Elaine Bernhardt who is now nearly three years of age. I am a fit and proper person to have the care, custody and control of my daughter but he is not a proper person.

Eunice Bernhardt

TESTIMONY OF MRS. CHARLES LOWELL

My name is Mrs. Charles Lowell. I live at Fairhope in Baldwin County, Alabama, where I have lived for the last thirty years. I am personally acquainted with Frank Bernhardt and Eunice Bernhardt. I have known Frank Bernhardt for the last twenty-five years and Eunice Bernhardt for the last four years. They are both over the age of twenty-one years. They were living at Fairhope at the time they separated. Frank Bernhardt became addicted after marriage to habitual drunkenness. When drinking he was a violent person and his condition was such that she was compelled to leave him on July 20, 1945. She has not lived with him as his wife since that time. She is a fit and proper person to have the care, custody and control of her minor daughter but it would be dangerous for her husband to have the control of this child.

Mrs. Chas. Lowell

ORAL EXAMINATION.

I, Evelyn Nelson, as ~~Registrar~~ Commissioner hereby certify that the foregoing depositions on Oral Examination was taken down by me in writing in the words of the witness es and read over to them and they signed the same in the presence of myself and John Chason at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness es or had proom made before me of the identity of said witness es; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 4th day of February, 1946.

Evelyn Nelson (L. S.)

NO. 1391 PAGE

THE STATE OF ALABAMA
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY.

FRANK BERNHARDT

vs. Complainant

EUNICE BERNHARDT

Respondent.

Oral Deposition

Filed Feb. 14 1946, Register.

Recorded in

Record

Vol. Page

, Register.

ORAL EXAMINATION.

I, Evelyn Nelson, as ~~[illegible]~~ Commissioner hereby certify that the foregoing deposition~~s~~ on Oral Examination was taken down by me in writing in the words of the witness~~es~~ and read over to them and they signed the same in the presence of myself and John Chason

at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness~~es~~ or had proom made before me of the identity of said witness~~es~~; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 4th day of February, 1946.

Evelyn Nelson (L. S.)

NO. 1391 PAGE

THE STATE OF ALABAMA
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY.

FRANK BERNHARDT

vs. Complainant

EUNICE BERNHARDT

Respondent.

Oral Deposition

Filed Feb 14 1946, 194

Register.

Recorded in

Record

Vol. Page

, Register.

COMMISSION TO TAKE DEPOSITIONS.

Moore Printing Co., Bay Minette, Ala.

The State of Alabama, Baldwin County

CIRCUIT COURT

To Evelyn Nelson

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine Eunice Bernhardt and Mrs. Charles Lowell

as witnesses in behalf of Eunice Bernhardt in a cause pending in our Circuit Court of Baldwin County, of said State, wherein Frank Bernhardt is

Complainant

and Eunice Bernhardt is

Defendant, and Cross-Complainant.

on oath to be by you administered, upon them

to take and certify the deposition~~s~~ of the witnes~~es~~ and return the same to our Court, with all convenient speed, under your hand.

Witness this 4th day of February 1946

R. H. Lusk

REGISTER

COMMISSIONER'S FEE, $

WITNESS' FEES, $

NO. 1391

The State of Alabama

BALDWIN COUNTY

CIRCUIT COURT

FRANK BERNHARDT

Complainant

vs.

EUNICE BERNHARDT

Defendant

COMMISSION TO TAKE DEPOSITION

COMMISSIONER:

WITNESSES:

FRANK BERNHARDT,	)	
Complainant	)	IN THE CIRCUIT COURT OF
Vs.		BALDWIN COUNTY, ALABAMA
EUNICE BERNHARDT,	)	IN EQUITY.
Respondent.	)	No. 1391

In this cause it being made to appear to the Register, R. S. Duck, that on the 25th day of August, 1945, the Complainant in the above styled cause filed his Bill of Complaint and service was had on the Respondent in the above styled cause on August 28, 1945; that on October 6, 1945 the Respondent filed her Cross-Bill in said cause.

And it further appearing to the Register that the Complainant and Cross-Respondent has failed to plead, answer or demur to said Cross-Bill to the date hereof as required by Equity Rule 26, it is now, therefore, on Motion of Respondent and Cross-Complainant, ordered, adjudged and decreed by the Register that the Cross-Bill filed in said cause be and it hereby is in all things taken as confessed against the said Frank Bernhardt, the Complainant and Cross-Respondent.

Witness my hand and seal this the 17th day of January, 1946.

R. S. Duck
Register.

DECREE PRO CONFESSO

FRANK BERNHARDT,

Complainant,

Vs.

EUNICE BERNHARDT,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

No. 1391

FILED: January 17, 1946

R. S. Veach

Register.

8581. NOTE OF TESTIMONY

Printed by The Baldwin Times, Bay Minette.

FRANK BERNHARDT

Complainant

vs.

EUNICE BERNHARDT

Respondent

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complaint upon the original Bill of Complaint,

& Cross-Complaint ~~Bill~~
and in behalf of Defendant upon ~~Answer and Cross-Bill,~~ Decree Pro Confesso
~~and the Testimony of Eunice Bernhardt and Mrs. Charles Lowell~~

Register.

Hybart & Rasco
Solicitors for Respondent & Cross Complainant

No. 1391

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

FRANK BERNHARDT

Complainant

vs.

EUNICE BERNHARDT

Respondent

NOTE OF TESTIMONY

Filed in Open Court this 4th

day of February, 1946.

R. A. Leach

Register.

Printed by The Baldwin Times, Bay Minette.

FRANK BERNHARDT,	)	
Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
EUNICE BERNHARDT,	)	IN EQUITY
Respondent.	)	No. 1391

Motion is hereby made for a Decree Pro Confesso against Frank Bernhardt, the Complainant and Cross-Respondent in the above styled cause on the ground that more than thirty days have elapsed since the filing of a Cross-Bill by the Respondent in said cause and the said Complainant and Cross-Respondent has failed to plead, answer or demur to the Cross-Complaint in this cause to this date, as required by Equity Rule 26.

Dated this 17th day of January, 1946.

Hybert L. Mason

Solicitors for Respondent and
Cross-Complainant

MOTION FOR DECREE PRO CONFESSO

FRANK BERNHARDT,

Complainant,

Vs.

EUNICE BERNHARDT,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 1391

FILED: January 17, 1946

R S Burks

Register.