

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

Comes your Complainant, HOWARD C. NIHART, and humbly
complaining against DAVID A. THOMAS, respectfully represents and
shows unto your Honor as follows:

FIRST:

That he is a bona fide resident of Baldwin County, Ala-
bama, over twenty-one years of age.

SECOND:

That David A. Thomas is over the age of twenty-one
years and a non-resident of the State of Alabama, his post office
address being 2325 Orchard Street, Chicago, Illinois.

THIRD:

Your Complainant alleges that he is in the quiet and
peaceable possession of certain lands in Baldwin County, Alabama,
claiming to own the same in fee simple, said lands being describ-
ed as follows, to-wit:

The Southwest quarter (SW $\frac{1}{4}$) of Section twenty-one
(21) in Township four (4) South of Range six (6)
East of St. Stephens Meridian, containing 160.20
acres, more or less.

FOURTH:

Complainant further alleges that the defendant, David
A. Thomas, claims or is reputed to claim some right, title or in-
terest in or incumbrance upon said lands.

FIFTH:

Complainant further alleges that no suit is pending
to question or test the validity of such claim, right, title or
interest in or incumbrance of the said defendant, and the com-
plainant therefore calls upon the defendant, David A. Thomas, to
set forth and specify his right, title or interest in or incum-
brance upon said land, and to show how and by what instrument
the same is derived and created.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, Complainant prays that your Honor will take jurisdiction of the cause made by this Bill of Complaint and by appropriate process make the said David A. Thomas party defendant to this Bill of Complaint, requiring him 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.

PRAYER.

Complainant further prays that upon a hearing of this cause this Honorable Court establish the title of complainant in and to the lands herein described and further find and decree that the said David A. Thomas has no claim, right, title or interest in or incumbrance upon the said lands herein described, or any part thereof, and grant unto your complainant such other, further or different relief as he may in equity be entitled to receive. And as in duty bound he will ever pray.

Beebe & Staal
Solicitor for Complainant.

FOOT NOTE:

The defendant is required to answer each and every allegation of the foregoing Bill of Complaint from Paragraphs FIRST to FIFTH inclusive, but not under oath, oath being hereby expressly waived.

Beebe & Staal
Solicitor for Complainant.

✓ 1923
RECORDED
ORIGINAL.

HOWARD C. NIHART,
Complainant,

vs.

DAVID A. THOMAS,
Defendant.

BILL OF COMPLAINT.

CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA, IN EQUITY.

Filed Aug 6th 1931
J. M. McKeen
Register

BEEBE & HALL

LAWYERS

BAY MINNIEUE, ALABAMA

Howard C. Nihart,
Complainant,
vs.
David A. Thomas,
Respondent.

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

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

Comes the respondent and respectfully shows to your Honor, and to this Honorable Court that heretofore in this cause, on, to-wit, the 12th day of October, 1931, a final decree was rendered wherein it was decreed that the respondent has no estate, right, claim, interest in, or incumbrance upon, the following described lands, or any part thereof, to-wit:

The Southwest quarter of Section 21, Township
4 South, Range 6 East of St. Stephens Meridian, in
Baldwin County, Alabama,

which said final decree is on file in this cause, and is by reference made a part of this petition; and respondent respectfully moves this Court for a re-hearing of the matters involved in this suit and of said decree, and moves the Court to set aside the decree pro confesso heretofore granted by the Register of this Court against this respondent on the 5th day of October, 1931, and to set aside and hold for naught the submission of said cause which was had on the 5th day of October, 1931, and set aside, annul and hold for naught the said final decree above referred to, rendered on the 12th day of October, aforesaid, and to reinstate said cause on the docket of this Court, and permit the respondent to enter his appearance therein and defend said cause on the answer herewith submitted, marked Exhibit "A", and prayed to be taken and considered as a part of this petition, and as grounds of this petition, the respondent respectfully shows to your Honor and to this Honorable Court as follows:

1. That the final decree rendered in said cause is void, irregular and of no effect as against this respondent, for that the motion for decree pro confesso in said cause was made on the 5th day of October, 1931, and that the decree pro confesso against this respondent purports to have been entered on the 5th day of

October, 1931, and that on the same date the Solicitors for the complainant filed in this Court their request for a decree in vacation, and on the same date the Register of this Court submitted said cause to your Honor for final decree, as will fully appear from the note of testimony filed in said cause. That said submission being in fact taken on the same day that said decree pro confesso was entered, was irregular and void, and will not support the final decree rendered in said cause by your Honor.

2. That respondent is a non-resident of the State of Alabama, and resides at 2325 Orchard Street, Chicago, Illinois; that on or about the 13th day of August, 1931, the respondent received by registered mail a copy of the summons in said cause, as will appear from the record herein; that immediately thereafter he turned the said summons, with copy of the bill in this cause attached thereto, over to Henry P. Kransz Company, real estate agents in Chicago, Illinois, with instructions to represent him in said cause; that thereafter he went on business into the State of Massachusetts, believing that the matters so referred to the said Henry P. Kransz & Company would have proper attention until his return; that in the meantime he became ill, and has remained ill and unable to attend to the matter in person until now; that acting for the said respondent the said Henry P. Kransz & Company took the matter up with the Title Insurance Company of Mobile, with instructions that it take steps to represent the respondent in said cause, or in event it was not possible for said Company to do so, that it turn the matter over to some attorney in the City of Mobile; that thereupon the said Title Insurance Company took the matter up with the undersigned attorneys and requested that they, in turn, take steps to represent the respondent, if and when advised to do so by the said Henry P. Kransz Company; that thereafter respondent's attorneys communicated with the said Henry P. Kransz Company and requested of them all available information necessary to defend said suit, but that such information was not received by respondent's attorneys until after the decree pro confesso had been taken in this case. Under date of October 31st, 1931, the respondents attorneys were advised by the said Henry P.

Kransz Company that the letters from respondent's attorneys to said Company requesting information sufficient to enable them to prepare respondent's answer in said cause had just been brought to their attention, and that the writer thereof was unaware of said communications from respondent's attorneys until the date of said letter, to-wit, October 31st, 1931; that thereafter the said Henry P. Kransz Company notified respondent's attorneys, giving them such information as they were then able to furnish, and advised respondent's said attorneys that they had been unable to obtain the information requested because of the illness of the respondent, David A. Thomas. Respondent therefore alleges that because of his illness, and because of his absence from his place of residence, that he has been unable to properly present his defense in said suit.

3. Respondent alleges as a part of this petition, that he has a meritorious defense to this cause of action, as is fully set forth in his answer thereto which is hereto attached and prayed to be taken and considered as a part of this petition. Your petitioner therefore respectfully shows to your Honor and to the Court that said decree is not only void in law, but that it is inequitable to this respondent in that the said respondent has not had his day in Court, and desires that the said cause be reinstated on the docket of this Court, and that he be permitted to offer in defense the matters set forth in the answer herein referred to.

To that end your petitioner respectfully prays that your Honor will set a day for the hearing of this petition; that due notice thereof be given to the plaintiffs, or their attorneys of record, and that upon said hearing your Honor will grant to your petitioner the relief herein prayed for.

Stevens M. Corney, M. L. Good, Attorneys
Attorneys for Respondent.

STATE OF ALABAMA,)
MOBILE COUNTY.)

Personally appeared before me, O. H. Swinson, a Notary Public in and for said County in said State, Ben D. Turner, who being first duly sworn deposes and says that he is one of the attorneys of record for the respondent, David A. Thomas, and that as such

he is authorized to make this affidavit, and that the matters of fact set forth in the foregoing petition are true to the best of affiant's knowledge, information and belief.

P. L. Turner

Sworn to and subscribed before me this the 9th day of November, 1931.

C. H. Swinson
Notary Public, Mobile County, Alabama.

We, the undersigned attorneys of record for the complainant, Howard C. Nihart, do hereby accept service of a copy of the foregoing petition for a re-hearing in said cause and notice of the filing of said petition, and consent that the same may be set down by the Honorable Francis W. Hare, Judge of said Court, for hearing, at such time and place as he may direct, and we do further agree that said date of hearing may be set on a day more than thirty days from and after the date of the final decree in said cause, and that said petition may be continued from the date of its filing to the date of hearing.

Dated this 9th day of November, 1931.

Beebe & Hare

Attorneys for Complainant.

Exhibit A.

Howard C. Nihart,
Complainant,
vs.
David A. Thomas,
Respondent.

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

Comes the respondent, and for answer to the bill of complaint filed against him in this cause and says:

1. The respondent admits the truth of the allegations of the first paragraph of said bill.
2. The respondent admits the allegations of the second paragraph of said bill.
3. Respondent denies the allegations of the third paragraph of said bill, and demands strict proof of same.
4. Respondent admits that he claims, and is reputed to claim, some right, title or interest in said lands, and alleges that he is the true legal owner thereof, as will appear from deeds on record in the Probate Office of Baldwin County, Alabama, and that no other person owns any interest in said land.
5. Answering the fifth paragraph of said bill, respondent says that he is not advised as to whether any suit is pending to question or test the validity of his claim, right, title, interest in, or incumbrance upon said land, but alleges that he, the respondent, is the true owner of the record title to the lands described in said bill.

In support of this claim, and of his title to said property, the respondent alleges that the said property was patented by the United States of America to Harrison Townley; deeded by Rhoda Townley, widow and sole heir of Harrison S. Townley to Ernest Y. Morgan, as per deed recorded in Deed Record 28 N.S., page 525 of the Public Records in the Probate Office of Baldwin County, Alabama; and deeded by Ernest Y. Morgan and Fannie Morgan, his wife, to the respondent, David A. Thomas, by deed recorded in Deed Record 40 N. S., at page 408 of the public records in the Probate Office of Baldwin County, Alabama, to which records reference is hereby made.

And having fully answered the bill of complaint in said cause, the respondent prays that this answer may be taken as a cross-

bill, and to that end respectfully shows to the Court the following facts:

1. That the complainant, Howard C. Nihart, claims the property described in the original bill by and through the purchase of said property from the State of Alabama for taxes due thereon for the year 1927, said tax sale having taken place on or about the _____ day of _____, 1928; that the sale of said lands for taxes on said date was irregular and void for the following reasons:

(a) That there was no valid assessment against the said lands for the year during which said tax is purported to have accrued.

(b) For that the Tax Collector did not make a valid report showing the necessity of the sale of said land, and that therefore the Probate Court was without jurisdiction to order a sale thereof.

(c) That because of irregularities in said tax sale the same was void and the Probate Court was without jurisdiction and authority to order a sale thereof.

(d) That because of irregularities in and about the notice of said sale the same was irregular and void.

2. That the sale of said lands to the complainant, Howard C. Nihart by the State of Alabama, was irregular and void for the following reasons:

(a) The application to purchase said property was not in legal form.

(b) There is not of record any assignment of the interest of the applicant for said lands to the said complainant.

WHEREFORE, your Respondent and now cross-complainant prays that the complainant, Howard C. Nihart, be made a respondent to this cross-bill, and that he be required to plead, answer and demur to the same according to the rules and practices of this Honorable Court.

And your respondent and cross-complainant prays that upon a hearing of this cause your Honor will decree that the sale of said lands to the State of Alabama in 1928 was a void sale, and that the same was an abortive attempt to deprive your complainant

and cross-respondent of his rights in and to said property, that the sale of said lands by the State of Alabama to the complainant and cross-respondent, Howard C. Nihart, was void, and that your Honor will order and decree that both the sale of said property to the State of Alabama, and by the State of Alabama to the said Howard C. Nihart be set aside and held for naught, and that the deed from the State of Alabama to the said Howard C. Nihart be cancelled as a cloud on the title of respondent and cross-complainant.

And respondent, in event said sale should not be void but irregular, hereby offers to pay to the said Howard C. Nihart, or such other person as may be entitled thereto, such taxes, fees and lawful charges as he may be entitled to in the premises because of his purchase of said property through the aforesaid tax proceedings, and to that end prays that a reference may be had for the ascertainment of the amount aforesaid.

Complainant and cross-respondent being a non-resident, hereby deposits with this bill, Court costs sufficient to cover the present cost of proceedings instituted by him, and offers to pay to the Register of this Court, from time to time, such additional sums as may be required.

Stevens M. Long M. Ford G. G. G. G.
Attorneys for Respondent and
Cross-Complainant.

FOOT NOTE:

Complainant and cross-respondent is required to answer each and every paragraph of the foregoing cross bill numbered 1 and 2, respectively, but answer thereto under oath is hereby expressly waived.

Stevens M. Long M. Ford G. G. G. G.
Attorneys for Respondent and
Cross-Complainant.

RECORDED

Howard C. Peck
Complaint

27.

David A. Thomas

Petition for Recovery

Filed Nov 9th, 1931.
6:33 PM

J. W. Beaman

Reports

Nov. 27th, 1931.
 The within motion is entered
 Continued to Dec. 14th, 1931.
 J. W. Beaman
 J. W. Beaman
 Dec. 14th 1931 -
 The within motion is entered
 Continued for no day.
 J. W. Beaman
 J. W. Beaman

Howard C. Nihart,
Complainant,
vs.
David A. Thomas,
Respondent.

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

Comes the respondent, and for answer to the bill of complaint filed against him in this cause and says:

1. The respondent admits the truth of the allegations of the first paragraph of said bill.
2. The respondent admits the allegations of the second paragraph of said bill.
3. Respondent denies the allegations of the third paragraph of said bill, and demands strict proof of same.
4. Respondent admits that he claims, and is reputed to claim, some right, title or interest in said lands, and alleges that he is the true legal owner thereof, as will appear from deeds on record in the Probate Office of Baldwin County, Alabama, and that no other person owns any interest in said land.
5. Answering the fifth paragraph of said bill, respondent says that he is not advised as to whether any suit is pending to question or test the validity of his claim, right, title, interest in, or incumbrance upon said land, but alleges that he, the respondent, is the true owner of the record title to the lands described in said bill.

In support of this claim, and of his title to said property, the respondent alleges that the said property was patented by the United States of America to Harrison Townley; deeded by Rhoda Townley, widow and sole heir of Harrison S. Townley to Ernest Y. Morgan, as per deed recorded in Deed Record 28 N.S., page 525 of the Public Records in the Probate Office of Baldwin County, Alabama; and deeded by Ernest Y. Morgan and Fannie Morgan, his wife, to the respondent, David A. Thomas, by deed recorded in Deed Record 40 N. S., at page 408 of the public records in the Probate Office of Baldwin County, Alabama, to which records reference is hereby made.

And having fully answered the bill of complaint in said cause, the respondent prays that this answer may be taken as a cross-

bill, and to that end respectfully shows to the Court the following facts:

1. That the complainant, Howard C. Nihart, claims the property described in the original bill by and through the purchase of said property from the State of Alabama for taxes due thereon for the year 1927, said tax sale having taken place on or about the _____ day of _____, 1928; that the sale of said lands for taxes on said date was irregular and void for the following reasons:

(a) That there was no valid assessment against the said lands for the year during which said tax is purported to have accrued.

(b) For that the Tax Collector did not make a valid report showing the necessity of the sale of said land, and that therefore the Probate Court was without jurisdiction to order a sale thereof.

(c) That because of irregularities in said tax sale the same was void and the Probate Court was without jurisdiction and authority to order a sale thereof.

(d) That because of irregularities in and about the notice of said sale the same was irregular and void.

2. That the sale of said lands to the complainant, Howard C. Nihart by the State of Alabama, was irregular and void for the following reasons:

(a) The application to purchase said property was not in legal form.

(b) There is not of record any assignment of the interest of the applicant for said lands to the said complainant.

WHEREFORE, your Respondent and now cross-complainant prays that the complainant, Howard C. Nihart, be made a respondent to this cross-bill, and that he be required to plead, answer and demur to the same according to the rules and practices of this Honorable Court.

And your respondent and cross-complainant prays that upon a hearing of this cause your Honor will decree that the sale of said lands to the State of Alabama in 1928 was a void sale, and that the same was an abortive attempt to deprive your complainant

and cross-respondent of his rights in and to said property, that the sale of said lands by the State of Alabama to the complainant and cross-respondent, Howard C. Nihart, was void, and that your Honor will order and decree that both the sale of said property to the State of Alabama, and by the State of Alabama to the said Howard C. Nihart be set aside and held for naught, and that the deed from the State of Alabama to the said Howard C. Nihart be cancelled as a cloud on the title of respondent and cross-complainant.

And respondent, in event said sale should not be void but irregular, hereby offers to pay to the said Howard C. Nihart, or such other person as may be entitled thereto, such taxes, fees and lawful charges as he may be entitled to in the premises because of his purchase of said property through the aforesaid tax proceedings, and to that end prays that a reference may be had for the ascertainment of the amount aforesaid.

Complainant and cross-respondent being a non-resident, hereby deposits with this bill, Court costs sufficient to cover the present cost of proceedings instituted by him, and offers to pay to the Register of this Court, from time to time, such additional sums as may be required.

Stevens M. Corvey M. Ford G. G. G. G.
Attorneys for Respondent and
Cross-Complainant.

FOOT NOTE:
Complainant and cross-respondent is required to answer each and every paragraph of the foregoing cross bill numbered 1 and 2, respectively, but answer thereto under oath is hereby expressly waived.

Stevens M. Corvey M. Ford G. G. G. G.
Attorneys for Respondent and
Cross-Complainant.

RECORDED

Howard C. Richard

Complainant

vs.

David A. Higgins
Respondent

Answer and Con-
fession

Filed Nov 9 1931
655 Am. B. Richardson
Register

STEVENS, McCORVEY, McLEOD, GOODE & TURNER

ATTORNEYS AT LAW

802-8 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

Nov 9 1931 Or 10-2 default on

HOWARD C. NIBBART,
Complainant,

VS

DAVID A. THOMAS,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

#989.

This cause coming on to be heard was submitted for final decree upon the pleadings; decree pro confesso and proof 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.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant, David A. Thomas, has no estate, right, claim, interest in or incumbrance upon the following described lands, or any part thereof, to-wit:

The Southwest quarter of Section twenty-one, Township four South, Range six East of St. Stephens Meridian in Baldwin County, Alabama, containing 130.20 acres, more or less;

and that the title to the same is vested in the said Howard C. Nibbart as against the said David A. Thomas.

IT IS FURTHER ORDERED that the Register of this Court shall, within thirty days from the rendition of this decree, file a certified transcript thereof for record in the Probate Court of Baldwin County, Alabama, and that the expense thereof be taxed in the costs of this cause.

IT IS FURTHER ORDERED that the Complainant pay the costs of this cause for which execution may issue.

Done at Monroeville, Alabama, on this the
12th day of October, 1931.

J. W. Hare
JUDGE OF THE FIRST JUDICIAL
CIRCUIT OF ALABAMA.

RECORDED

HOWARD C. HINARD,
Complainant,

vs

DAVID A. MICHAEL,
Defendant.

JULY DECEMBER.

Filed October 14th 1931,
W. P. [Signature]
Registrar.

BEEBE & HALL
LAWYERS
BAY MINETTE, ALA.

HOWARD C. NIHART,
Complainant,
vs.
DAVID A. THOMAS,
Respondent.

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

NO. 989.

And now comes the complainant and files this his motion to strike the respondent's petition for a re-hearing in the above styled cause filed in this Court on November 9, 1931, at 6:55 P.M., and as ground for such motion says:

1. That on August 6, 1931, the complainant filed his Bill against the respondent in the Circuit Court of Baldwin County, Alabama, to quiet title to certain lands described in said Bill as follows, to-wit: The Southwest quarter of Section 21, Township 4 South, Range 6 East of St. Stephens Meridian, containing 160.20 acres, more or less; that on August 6, 1931, the Register mailed to the respondent, whose address was 2325 Orchard Street, Chicago, Illinois, by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed", a copy of the Bill of Complaint, together with a Summons, and demanded a return receipt addressed to the Register of the Court, and that such receipt was duly received and filed on the 17th day of August, 1931; that just before the expiration of the time allowed the respondent in which to plead, answer or demur, the attorneys for the respondent called over long distance telephone the attorneys for the complainant and asked that they be allowed a few days' additional time in which to file their pleadings, which request was granted; that some several days subsequent to that time one of the attorneys for the complainant called at the offices of the attorneys for the respondent and advised that the complainant was pressing that some step be taken for a final conclusion of

the matter. The attorneys for the respondent again requested that the matter be held open for a few days until they could get further communication from the respondent. This request was also granted. Then several days expired and no pleadings having been filed, one of the attorneys for the complainant again called at the offices of the attorneys for the respondent and asked as to when pleadings would be filed, and was advised by the attorneys for the respondent that they had heard nothing from their client and did not care to file any pleadings until after having received definite instructions, but stated that they would get in touch with the respondent by telegram and asked that the matter be held open for a few days longer. This request was also granted. Some several days subsequent the attorneys for the complainant called the attorneys for the respondent over long distance telephone and asked whether or not they had heard anything from their client and advised that the complainant was pressing them and that they wished that some pleadings be filed in the matter. The attorneys for the complainant were again advised by the attorneys for the respondent that they had heard nothing from their client and that it would be all right for the complainant to go ahead and take a decree pro confesso against the respondent. On October 5, 1931, the attorneys for the complainant filed with the Register of the Circuit Court of Baldwin County, Alabama, a motion for decree pro confesso against the respondent; that on said October 5, 1931, a decree pro confesso, after notice by registered mail, was granted by the Register, and that on said date, October 5, 1931, the Register of the Circuit Court filed a note of testimony, and that on the same date the attorneys for the complainant filed a request for a decree in vacation; that the motion for decree pro confesso, decree pro confesso, note of testimony and request for decree in vacation were all filed on October 5, 1931; that the matter was submitted to Hon. F. W. Hare, Judge of the

Twenty-first Judicial Circuit of Alabama, and a final decree rendered on the 12th day of October, 1931, seven days subsequent to the issuance of the decree pro confesso.

2. That the request for decree pro confesso, decree pro confesso, note of testimony and motion for decree in vacation were filed with the Register on October 5, 1931; that the matter was not, as alleged in the petition of the respondent, submitted to the Court for final decree on the same date, but was submitted to the Court and a final decree rendered on October 12, 1931.

3. That the matters alleged in Paragraph 2 of the respondent's petition show a grave lack of diligence on the part of the respondent, and show no excuse for his not having answered the allegations of the complainant's bill of complaint within the time allowed by law.

4. That the allegations contained in Paragraph 2 of the respondent's petition show that the respondent himself has been guilty of laches.

5. That the allegation contained in the respondent's petition for re-hearing and the answer referred to therein and attached thereto show no facts which constitute a meritorious defense to the original bill of complaint in this cause.

6. That the decree pro confesso in this cause was granted on the 5th day of October, 1931, and the cause submitted to the Court for a hearing and heard by the Court on October 12, 1931, and a final decree rendered on said date, October 12, 1931.


Attorneys for Complainant.

RECORDED

ORIGINAL.

HOWARD C. MIHART,
Complainant,

vs.

DAVID A. THOMAS,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.
NO. 989.

MOTION TO STRIKE PETITION
FOR RE-HEARING.

*Filed Nov 24th 1951
J. W. DeLoach
Clerk*

BEEBE & HALL
LAWYERS
BAY MINETTE, ALA.

Howard C. Nihart, :
Complainant, : IN THE CIRCUIT COURT OF BALDWIN
: COUNTY, ALABAMA.
vs. : IN EQUITY.
: :
David A. Thomas, :
Respondent. :

In this cause the respondent having filed his petition for a rehearing of said cause, and it appearing to the Court that thirty days have not elapsed since the rendering of the final decree in said cause and notice of the filing of this petition for rehearing having been given to Messrs. Beebe & Hall, attorneys of record for the complainant, as will appear from their acceptance of service of record in said cause, and it appearing to the Court that the said petition presents matters which should be considered by the Court;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that said petition for rehearing being now presented to the undersigned as Judge of said Court, be and the same is hereby continued until the 17th day of November, 1931, and that the same be then heard before the undersigned at Monroeville, Ala. pursuant to the terms of said acceptance of service herein referred to.

IT IS FURTHER ORDERED that a copy of this order be served by a register of this court upon the said Beebe & Hall, as attorneys of record for the complainant.

Done this 10th day of November, 1931.

F. W. Hare
Judge.

Howard C. Nihart, Complainant

VS
David A. Thomas, Deft.

Deecee

Filed Mar 12 1931

D. M. E. Clerk

The State of Alabama, }
Baldwin County

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY

To Any Sheriff of the State of Alabama--GREETING:

WE COMMAND YOU, That you summon

David A. Thomas

2325 Orchard Street,

Chicago, Illinois

of Cook Illinois County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

Howard C. Nihart

against said

David A. Thomas

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 6th day of

August, 193 1

T. W. Richerson Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

ORIGINAL

Serve on David A. Thomas
Circuit Court of Baldwin County
In Equity.

No. _____

SUMMONS

Howard C. Nihart

vs.

David A. Thomas

Beebe & Hall
Solicitor for Complainant.

Recorded in Vol. _____ Page _____

The State of Alabama,
BALDWIN COUNTY.

Received in office this _____

day of _____ 198

_____ Sheriff.

Executed this _____ day of

_____ 198

by leaving a copy of the within Summons with

_____ Defendant.

_____ Sheriff.

By _____ Deputy Sheriff.

Copy of Bill and Summons
registered to David A. Thomas,
at 2325 Orchard Street,
Chicago, Illinois, August 6,
1981

[Handwritten Signature]

HOWARD NIHART,

Complainant,

-vs-

DAVID A. THOMAS,

Defendant.

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Come Stevens, McCorvey, McLeod, Goode & Turner, and Hybart, Heard & Chason, Solicitors of Record for David A. Thomas, and withdraw their appearance for said Defendant, David A. Thomas.

Stevens McCorvey McLeod Goode & Turner
Solicitors for Defendant.

Hybart Heard & Chason
Solicitors for Defendant.

711 4452

RECORDED

Methodence of Coffman
Dr. J. L. Adams

Filed Mar 31/1932
J. W. Peckham
Register

RECORDED FOR RELEASE

RECORDED FOR RELEASE

RECORDED FOR RELEASE

RECORDED FOR RELEASE

RECORDED FOR RELEASE

RECORDED FOR RELEASE

Howard C. Nihart,

vs.

David A. Thomas,

CIRCUIT COURT OF
Baldwin County.

IN EQUITY.

In this cause it being made to appear to the Register that on the 6th day of August, 1931, a copy of the Bill of Complaint filed in this cause was sent to David A. Thomas,

Defendant, by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," and return receipt demanded addressed to the Register of this Court; and that on the 17th day of August, 1931, such receipt was duly received and filed in this cause:

And it further appearing to the Register that the said Defendant has failed to plead, answer or demur to the said Bill to the date hereof, it is now, therefore, on motion of Complainant, ordered, adjudged and decreed by the Register that the said Bill of Complaint be, and it hereby is in all things taken as confessed against the said

David A. Thomas, Defendant

This the 5th day of October, 1931.

W. J. ... Register.

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RECORDED

No. 989.

CIRCUIT COURT OF BALDWIN
COUNTY, ALA.

In Equity.

Howard C. Nihart,

vs.

David A. Thomas,

Decree Pro Confesso After
Notice By Registered Mail.

Filed in office this 5th day of

October, 1921.

M. B. ... Register

Entered in O. B. Page

Mr. J. 66-37

RECORDED

1540-
85-
1625-

Revised

Filed
April 19 1932
J. M. [unclear]
[unclear] [unclear]

BAY MINETTE, ALA.,

10/14

1931

Howard C. Whit

Bay Minette - Ala.

IN ACCOUNT WITH

G. W. HUMPHRIES

JUDGE OF PROBATE

BALDWIN COUNTY

Please Return Bill With Remittance

Privilege Tax

Rec. Fee

Total

Debit
Rec. Mort. from

to

Oct 14 HC Whit vs David a Lewis

45 450

Paid 10/14/31

G. W. Humphries

P. J.

Howard C. Nihart,

David A. Thomas, *vs.*

CIRCUIT COURT OF

Baldwin COUNTY.

IN EQUITY.

I, T.W. Richerson, Register of said Court, do hereby certify that I

did, on the 6th, day of August, 1931, send to

David A. Thomas, Defendant.

whose address was 2325 Orchard Street, Chicago Ill,

by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," a copy of the Bill

of Complaint filed in this cause; that I demanded a return receipt addressed to the Register of this Court; and that such

receipt was duly received and filed by me in this cause, on the 17th, day of August, 1931,

Witness my hand, this 5th day of October, 1931.

RECORDED
No.

CIRCUIT COURT OF
BALDWIN COUNTY.
IN EQUITY.

~~Howard C. Nihart~~

Howard C. Nihart

vs.

David A. Thomas,

CERTIFICATE OF REGISTER AS TO NOTICE
BY REGISTERED MAIL.

Filed in office on this *Oct*

day of October, 192*3*.

W. B. ...

Register.

8581 NOTE OF TESTIMONY

Howard C. Nihart

.....
.....
.....

vs.

David A. Thomas

.....
.....
.....

THE STATE OF ALABAMA,
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,.....
service by registered mail and decree pro confesso upon service by
registered mail,.....

and in behalf of Defendant upon.....



Register.

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RECORDED

No. 989

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

Howard C. Nihart

VS

David A. Thomas,

NOTE OF TESTIMONY

Filed in Open Court this 5th

day of Oct 1931

D. M. ...

Register

8550 REQUEST FOR DECREE IN VACATION.

MOORE PTG CO.

STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT, IN EQUITY.

No. 988 Vacation Term, 1931

Howard C. Nihart, Complainant

vs.

David A. Thomas, Defendant

To T.W. Richerson, Register:

In the above stated cause a Decree Pro Confesso having been taken against the Defendant, and evidence having been taken, and the cause being ready for submission for final decree, and no defense having been interposed, the Complainant, by Beebe & Hall,

Solicitors of record, now files with the Register of this Court this written request to deliver the papers in this cause to the Judge for final decree in vacation.

Beebe & Hall

Solicitor for Complainant.

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No. 989

RECORDED Page

THE STATE OF ALABAMA
BALDWIN COUNTY
CIRCUIT COURT, IN EQUITY

Howard C. Nihart

vs.

David A. Thomas,

REQUEST FOR DECREE IN
VACATION

FILED Oct 5th 1923

Register

RECORDED IN RECORD

VOL. PAGE

Register

The State of Alabama,
Baldwin County.

No. CIRCUIT COURT IN EQUITY.

Howard C. Nihart,

Complainant

vs.

David A. Thomas,

Defendant

Motion is hereby made for a Decree Pro Confesso against

David A. Thomas,

Defendant

in the above stated cause, on the ground that more than thirty days have elapsed since service of
& copy of bill Registered Mail,
summons upon said Defendant...; and that said summons was duly served according to law, and
that said Defendant... has failed to demur, plead to or answer the Bill of Complaint in this cause
to this date.

This 5th day of Oct 1951

Beebe + Hall Solicitors

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No. 989

RECORDED

Page

The State of Alabama,
Baldwin County.

CIRCUIT COURT, IN EQUITY

Howard C. Nihart

vs.

David A. Thoms,

MOTION FOR DECREE PRO
CONFESSO ON PERSONAL SERVICE

Filed Oct 5th, 1931. 19

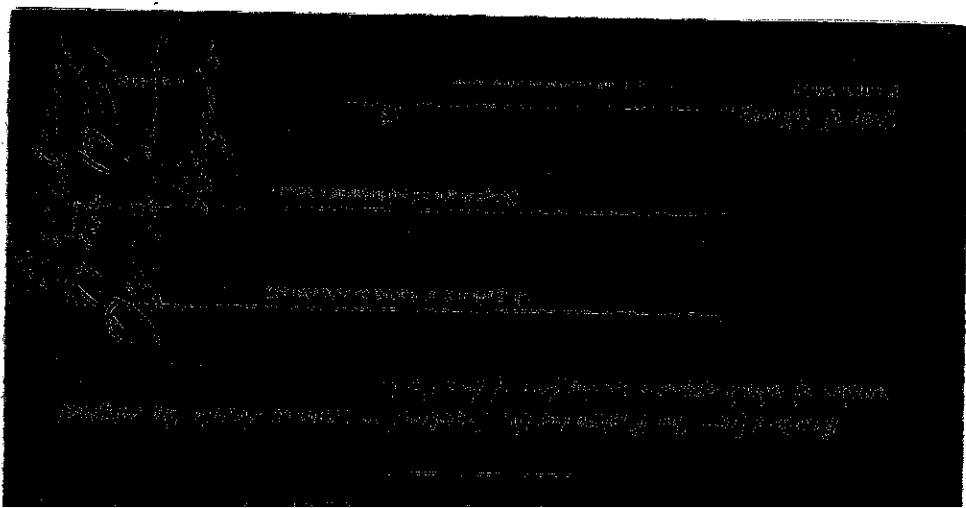
J. W. Beirson

Register

Recorded in Record,

Vol. Page

Register.



THE UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

MEMORANDUM FOR THE DIRECTOR

DATE: 10/10/54
SUBJECT: [Illegible]

TO: SAC, [Illegible]

FROM: [Illegible]

[Illegible handwritten text]