

Defendant.

NO. 1015-

10. That no facts are set out which show that the plaintiff has suffered or will suffer irreparable injury.

11. That no facts are averred which show a connection between the alleged threats of the defendant and the cessation of work by the agents and employees of the plaintiff on the property described in the complaint.

12. That the averment "that said agents and employees of your Orator have been forced to quit work and that all its operations on said lands have been suspended because of this interference with the possession of same by the defendant." is a mere conclusion of the pleader and is not supported by any facts averred in the bill.

13. That the averment "that unless the said Raleigh McKenzie is restrained and enjoined from interfering with the possession of Your Orator that said lands will be practically valueless and that your Orator will suffer great loss if it is not permitted the unrestrained use of this, its property." is a mere conclusion of the pleader and is not supported by any facts averred in the bill.

Hamilton & Gordon
ATTORNEYS FOR DEFENDANT.

MO. 1015

Magnolia Shreve and
Company, a corporation
of Kentucky

to

Walter McHenry

Deputy

Deputy to Engineer
General West 1932

W. B. Freeman
Register

Smith & Son

200 St. Louis

MAGNOLIA SPRINGS LAND
COMPANY, *a Corporation,*

Complainant,

-VS-

RALEIGH MCKENZIE,

Respondent.

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

This cause coming on to be heard upon the Motion of the Respondent, Raleigh McKenzie, duly verified by Affidavit to set aside the Decree Pro Confesso as rendered against this Respondent on the 11th day of July, 1932, and also the Final Decree rendered in this cause granting the relief as prayed for, said Decree bearing date of the 15th day of July, 1932, and the said Motion having been heard and duly considered;

IT IS ORDERED, ADJUDGED AND DECREED by the Court that the Decree Pro Confesso above specified and the Final Decree above specified, and which were granted in this cause under dates above specified, are hereby set aside, made null and void, and the Respondent, Raleigh McKenzie, is given twenty (20) days from the date of this Decree within which to plead, answer or demur to the Bill of Complaint in this cause.

Given under my hand this the 25th day of August, 1932.

J. W. Hare

Judge of the 21st Judicial Circuit.

Mo. 1015

Magnolia Springs and
Company, a Corporation

Security

to

Harry McKeage

Deputant

Deputies to Captains
Gives with 900 1932

W. B. DeCunha
Register

Smith's & Sons

200 St. Charles

MAGNOLIA SPRINGS LAND COM-
PANY, a Corporation,

Complainant,

-vs-

RALEIGH MCKENZIE,

Respondent.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

ORDER PERPETUATING INJUNCTION.

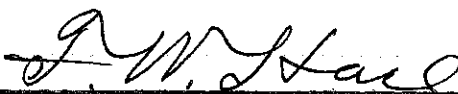
This cause coming on to be heard, and having been submitted for Decree upon the Original Bill of Complaint and the evidence as noted by the Register, and the matter having been heard and duly considered;

IT IS ORDERED, ADJUDGED AND DECREED by the Court that the Temporary Injunction heretofore granted in this cause be, and it is hereby made perpetual, and that a permanent writ of Injunction issue against the said Raleigh McKenzie, forever restraining and enjoining him, his agents and employees, and each of them, from trespassing upon the following described lands situated in Baldwin County, Alabama, to-wit:-

The Northwest Quarter of the Southwest Quarter of Section Nineteen, Township Seven South of Range Three East, being a part of the Michael McKenzie Private Land Grant, Section Thirty-seven, Township Seven South of Range Three East, and all of Section Thirty-seven, Township Seven South of Range Two East;

and from cutting or removing the timber thereon and therefrom, or from interfering with the possession or occupation of the said Magnolia Springs Land Company, and it is further ordered and decreed that the defendant be taxed with the costs in this cause, for which let execution issue.

Dated this 18th day of August, 1938.


Judge of the 21st Judicial Circuit.

Comes the defendant in the above styled cause and moves the Court to vacate or set aside the final decree granting a perpetual injunction and moves the Court to vacate or set aside the decree pro confesso and grant the defendant the right to plead, answer or demur to the bill of complaint in said cause, for that the defendant, immediately after being served with a copy of the bill of complaint in the cause, and within thirty days from the date of such service, employed Mr. W. C. Taylor, a duly licensed attorney to practice in all of the courts of Alabama, to represent him but that the said W. C. Taylor failed to take any action in the case other than the filing of a general appearance, although the defendant repeatedly conferred with said attorney about the case, and within the said thirty days after service of copy of complaint, and said Taylor told defendant he was attending to said case and everything was all right, and defendant relied upon said Taylor's statement, and it was due to the failure and negligence of said W. C. Taylor to appear in defendant's behalf and plead, answer or demur that a decree pro confesso and a final decree were entered against the defendant, and not due to any negligence on the defendant's part, and affidavits of the defendant, Raleigh McKenzie, also of Harry H. Parker and J. S. Nelson as to these facts are hereto attached and made a part of this motion as though fully set out herein.

The defendant further avers that he has a good and meritorious defense to the bill of complaint in that at the time the bill was filed he had the legal title to the property described in the bill and at the time the bill was

MAGNOLIA SPRINGS LAND
COMPANY, a Corporation,
Complainant
vs.
RALPH MCKENZIE,
Defendant

Filed and at present the right of immediate possession thereto.
There are attached hereto a certified copy of the patent issued
by the United States of America to Michael McKinsey, a certi-
fied copy of the deed by A. H. Malaney and J. R. Malaney to
the defendant, affidavits by A. H. Malaney and J. R. Malaney,
and the affidavits of the defendant, Raleigh McKenzie, and
J. S. Nelson, above referred to, all showing the title of
the defendant and his right to possession to the property
described in the bill of complaint, which are made a part
of this motion as though fully set out herein.
Wherefore, the defendant asks the Court to grant
this motion and set aside said decree pro confesso and
final decree and allow him to plead, answer or demur to the
bill of complaint.

Respectfully submitted,

Smith & Gordon
ATTORNEYS FOR DEFENDANT

STATE OF ALABAMA,
COUNTY OF MOBILE.

Personally appeared before me,
Mae Dayton
a Notary Public in and for said County and State, Raleigh

McKenzie, who after being by me duly and legally sworn,

doth depose and say as follows:

That he is the defendant in Case No. 1015, in the Baldwin County Circuit Court, Equity Side, in which the Magnolia Springs Land Company, a corporation, is complainant; that he is also defendant in Case No. 1014½, in the same court, in which Anna E. Foley is plaintiff;

that before suit in either case was filed, but after the dispute over the land involved in the suits, had started, on the recommendation of his uncle, J. S. Nelson, he consulted Mr. W. C. Taylor, a licensed attorney practicing in Mobile, Alabama, regarding his rights; that two days after he was served with a copy of the complaint in both of the above cases, he went to Mobile and made the necessary arrangements for Mr. Taylor to represent him in both cases; that he gave Mr. Taylor all the papers showing his title to the property involved in the two cases, including an abstract to same. The affiant further stated that he took

Mr. Harry H. Parker, an abstracter living at Fairhope,

Alabama, with him to see Mr. Taylor to better explain to Mr. Taylor the affiant's defenses; that he, the affiant, made five trips to Mobile from Magnolia Springs, Alabama, his home, to see Mr. Taylor regarding the cases and their progress; that on several occasions affiant took said Mr. J. S. Nelson with him to see Mr. Taylor; that in February

affiant had said Mr. Parker call Mr. Taylor in Mobile from Bay Minette and ask him if the cases were set anytime soon; that he wrote Mr. Taylor regarding the cases. He further

states that each time he, affiant, conferred with Mr. Taylor regarding the cases, Mr. Taylor told him not to worry, that he, Mr. Taylor, was doing all that was necessary to protect his, the affiant's interests; that he relied on Mr. Taylor's

statements and didn't know a decree of any kind had been

entered in the cases against him until the Clerk of the

Court asked him to pay the costs. The affiant further

states that he has been living on part of the land des-

cribed in the complaint of Case No. 1015 by Magnolia

Springs Land Company for the past twelve years; that the

rest of the property involved in the two cases is uncult-

ivated land covered by second growth timber; that up until

1928 no one had been in possession of the property; that in

1928 the plaintiff in both cases began unlawfully to box

and turpentine the trees thereon; that he, the affiant,

bought the land involved in the two cases from A. H.

Malaney and J. R. Malaney and has not given the complain-

ant in either case the right of possession.

Orville H. Malaney

Subscribed and sworn to before
me this 8th day of August,
1932.

Marie Day
NOTARY PUBLIC, MOBILE COUNTY, ALA.

STATE OF ALABAMA,

COUNTY OF MOBILE.

Before me, *Maude Clayton*, a Notary

Public in and for said County and State, personally appeared J. S. Nelson, who after being by me first duly and legally sworn, doth depose and say:

That he is a deputy sheriff of Mobile County,

Alabama; that Raleigh McKenzie, the defendant in two suits filed in the Baldwin County Circuit Court, Equity side, one filed by Magnolia Springs Land Company and the other by Anna H. Foley, is his nephew; that before the suits were filed, but after the dispute over the land involved in the cases had started, the said Raleigh McKenzie asked him for the name of a good attorney to advise him regarding his rights and that he recommended Mr. W. C. Taylor, an attorney practicing in Mobile, Alabama; that after suit was filed in both cases, he went with Mr. McKenzie to Mr.

Taylor's office and that said Mr. McKenzie employed Mr.

Taylor to represent him in both cases; that he consulted Mr. Taylor regarding the two cases several times, sometimes

in the company of Mr. McKenzie and Harry H. Parker, of Fair-

hope, Alabama, and sometimes alone. The affiant further states that he heard Mr. Taylor tell Mr. McKenzie several times to go home and stop worrying, that he, Mr. Taylor,

was doing all that was necessary to protect his, Mr.

McKenzie's, interests.

The affiant further states that said Raleigh

McKenzie has been living on part of the land involved in the suit filed by Magnolia Springs Land Company for the

past twelve years; that the rest of the land involved in the two suits is uncultivated land, covered by second

growth timber; that up until 1928 no one had been in pos-

session of the property but that in 1928 the complainant
in both suits began to box and turpentine the trees on
the land.

J. S. Miller

Subscribed and sworn to before
me this 8th day of August,
1932.

Mae Dayton
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA.

STATE OF ALABAMA,
COUNTY OF MOBILE.

Before me, *Maude Daykin*, a Notary
Public in and for said State and County, personally appeared
Harry H. Parker, who after being by me first duly sworn,

doth depose and say:

That he lives at Fairhope, Baldwin County, Alabama,
and is a licensed abstractor; that he knows Mr. Raleigh

McKenzie, the defendant in two suits filed in the Circuit

Court of Baldwin County, Alabama, Equity Side, one filed by

Magnolia Springs Land Company and the other by Anna E. Foley,

to enjoin the said Mr. Raleigh McKenzie from trespassing on

certain property; that he made an abstract of title to the

property involved in both cases for said Mr. McKenzie and

that said Mr. McKenzie took him to Mobile several times to

consult with Mr. W. C. Taylor, the attorney for Mr. McKenzie,

regarding the title of Mr. McKenzie to the property involved

in both cases; that on February 2, 1932, he called said Mr.

W. C. Taylor in Mobile, Alabama, from Bay Minette, Alabama,

at the request of said Mr. McKenzie, to find out if the two

cases were set for a hearing anytime soon. He further states

that on several occasions he heard said Mr. Taylor tell Mr.

McKenzie to go home and stop worrying, that he, Mr. Taylor,

would look after his, Mr. McKenzie's, interests in the two

cases and do all that was necessary.

Subscribed and sworn to before
me this *2nd* day of August,
1932.

Maude Daykin
NOTARY PUBLIC, MOBILE COUNTY, ALA.

THE UNITED STATES OF AMERICA,

TO ALL TO WHOM THESE PRESENTS shall come greeting:--

WHEREAS, there has been deposited in the General Land Office of the United States a patent certificate numbered sixty-eight, issued by the Register and Receiver of the United States Land Office at Montgomery, Alabama, on the thirteenth day of October, one thousand eight hundred and ninety-nine, whereby it appears that the claim of Michael McKinsay to a tract of land number sixty-eight in the report numbered one of the Register of the Land Office at Jackson Court-House, dated the seventeenth day of August one thousand eight hundred and twenty, was confirmed by the Act of Congress approved on the eighth day of May one thousand eight hundred and twenty-two, entitled "An Act supplementary to the several Acts for adjusting the claims to land and establishing land offices, in the districts east of the Island of New Orleans." And whereas the said claim has been regularly surveyed and designated as Section Number thirty-seven in township seven south of range two east, and section number thirty-seven in township seven south of range three east of the St. Stephens Meridian in Alabama, containing in the aggregate five hundred and eighty-eight acres and eleven hundredths of an acre, as shown by the township plats on file in the General Land Office, approved the nineteenth day of May one thousand eight hundred and forty-five.

Now know ye, That the United States of America, in consideration of the premises and in accordance with the provisions of the fifth Section of the Act of Congress aforesaid, of the eighth day of May one thousand eight hundred and twenty-two. Has given and Granted and by these presents Does Give and Grant unto the said Michael McKinsay and to his heirs the tracts of land above described. To Have and to Hold the said tracts of land with the appurtenances unto the said Michael McKinsay, his heirs and assigns forever.

IN TESTIMONY WHEREOF, I William McKinley, President of the

United States of America, have caused these letters to be made

Patent and the Seal of the General Land Office to be hereunto af-

fixed.

Given under my hand at the City of Washington, this twenty-

second day of November, in the year of our Lord One thousand

eight hundred and ninety-nine and of the Independence of the

United States the one hundred and twenty-fourth.

By the President, William McKinley, (SEAL)

By F.M. McKean, Secretary,

C.H. Brush, Recorder of the General Land Office,

Rec. Vol 24, pp. 450 to 451 inclusive.

Filed for Record Feb'y 24th, 1900,

Recorded March 27th, 1900.

Chas. Hall, Judge of Probate.

THE STATE OF ALABAMA, |
 |
COUNTY OF BALDWIN. |
 |
SS. |

I, G.W. Humphries, Judge of the Probate Court and Custodian

of the Records and Files of the same in and for Baldwin County,

State of Alabama, do hereby certify that the above and foregoing

is a true, correct and complete copy of an instrument of writing

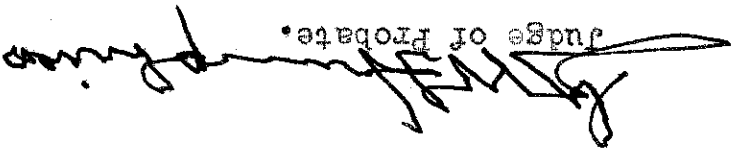
as the same appears of record in Deed Record No. 2 N.S., at pages

286 and 287, now on file in the office of Judge of Probate of Bald-

win County, Alabama.

Witness my hand and the seal of said Court, this 2nd day of

August, A.D., 1932.


Judge of Probate.

STATE OF ALABAMA,

COUNTY OF BALDWIN.

Before me, *J. E. Duckworth*, a Notary

Public in and for said State and County, personally appeared
J. R. Malaney, who after being by me first duly sworn, doth

depose and say:

That he is seventy years old and a resident of

Magnolia Springs, Baldwin County, Alabama; that his mother

told him she had an uncle, Michael McKinsy, on her mother's

side. He further states that he was also told by his mother

that her mother, the affiant's grandmother, and the said

Michael McKinsy were from Ireland and of Scotch-Irish

descent; that they went to Canada from Ireland and the said

Michael McKinsy came south from Canada many years ago and

acquired land in one of the Gulf states; that at the time

said Michael McKinsy left Canada, he was unmarried. The

affiant also states that his mother did not mention any

brothers or sisters of said Michael McKinsy, the affiant's

great uncle, other than her mother; that his mother had one

sister who married a man named Owens and moved to New South

Wales, Australia, with her husband many years ago and has

never been heard of since. He further states that his mother

moved to America from Canada and died in Birmingham, Alabama,

in 1926, at the age of ninety-six, and left as her heirs A. H.

Malaney, his brother, and himself. The affiant states that

he came south some years ago with his mother and brother and

that along with his brother, the said A. H. Malaney, he

searched some maps in the State of Alabama, trying to locate

land which might have been granted to the said Michael

McKinsey and located what is known as the Michael McKinsey

Grant to land located in Baldwin County, Alabama, and des-

cribed as follows:

Section 37, Township 7, South of Range 2
East, and Section 37 in Township 7 South
of Range 3 East of St. Stephens Meridian
in Alabama, containing in the aggregate
588 acres and eleven hundredths of an acre
as shown by the township placed on file
in the General Land office.

J. E. Duckworth

Subscribed and sworn to before
me this 37 day of August,
1932.

J. E. Beckman

NOTARY PUBLIC, BALDWIN COUNTY, ALA.

My Commission Expires October 24th, 1933.

STATE OF ALABAMA,

COUNTY OF MOBILE.

Before me, *Marie Dayton*, a Notary

Public in and for said State and County, personally appeared A. H. Malaney, who after being by me first duly sworn, doth

depose and say:

That he is sixty-five years old and a resident of Magnolia Springs, Alabama; that his mother told him she had an uncle named Michael McKlnsey on her mother's side. He

further states that he was also told by his mother that her mother, the affiant's grandmother, and the said Michael

McKlnsey, were from Ireland of Scotch-Irish descent; that

the said Michael McKlnsey came south from Canada many years

ago and acquired land in one of the Gulf states. The affiant

also states that his mother did not mention any brothers or

sisters other than her mother of the said Michael McKlnsey;

that his mother had one sister who married a man named Owens

and moved to New South Wales, Australia, with her husband

many years ago and has never been heard of since. He further

states that his mother moved to America from Canada and died

in Birmingham, Alabama, in 1926, at the age of ninety-six,

and left as her heirs J. R. Malaney, his brother, and himself;

that J. R. Malaney is now living at Magnolia Springs, Alabama,

and is seventy years old. The affiant states that he came

south some years ago and examined maps first in the State of

Florida, trying to locate grants to Michael McKlnsey, and

then in the State of Alabama, where he located the grant to

Michael McKlnsey to the following described property, located

in Baldwin County, Alabama:

Section 37, Township 7, South of Range 2
East, and Section 37 in Township 7 South
of Range 3 East of St. Stephens Meridian
in Alabama, containing in the aggregate
588 acres and eleven hundredths of an acre
as shown by the township placed on file
in the General Land office.

A. H. Malaney

NOTARY PUBLIC, MOBILE COUNTY, ALA.

Marie Dayton
Subscribed and sworn to before
me this 2nd day of August, 1932.

QUIT CLAIM DEED

STATE OF ALABAMA,
:
BALDWIN COUNTY. I

KNOW ALL MEN BY THESE PRESENTS, That A.H. Malaney, a single man;
and J.R. Malaney, a single man; both heirs-at-law of Michael

McKinsey, deceased, in consideration of the sum of One Dollar and
other valuable considerations to us in hand paid by Rallegn Mc-
Kenzie, the receipt whereof is hereby acknowledged, do remise,
release, quit-claim and convey to the said Rallegn McKenzie, all
our right, title, interest and claim, in or to the following des-
cribed real estate (or lands), to-wit: In Baldwin County, Alabama,
Described in a United States Land Patent dated November 22, 1899 and
filed for record in Baldwin County Records on February 24, 1900
and duly recorded in Deed Book 2 N.S., pages 286-287, and further
described as follows:

"Whereas, there has been deposited in the General Land Office
of the United States, a patent certificate, numbered sixty-eight,
issued by the register and receiver of the United States Land

Office at Montgomery, Alabama, on the thirtieth day of October,
one thousand eight hundred and ninety-nine, whereby it appears
that the claim of Michael McKinsey to a tract of land number

sixty-eight in the report numbered one of the Register of the
Land Office at Jackson Court-house, dated the seventeenth day of
August one thousand eight hundred and twenty, was confirmed by the
Act of Congress approved on the eighth day of May, one thousand
eight hundred and twenty-two, entitled "An Act supplementary to the
several Acts for adjusting the claims to land and establishing

land offices, in the districts east of the island of New Orleans,"
and whereas the said claim has been regularly surveyed and desig-
nated as Section number thirty-seven in township seven south of
range two east, and section number thirty-seven in township seven
south of range three east of the St. Stephens Meridian in Alabama,
containing in the aggregate five hundred and eighty-eight acres

and eleven hundredths of an acre, as shown by the township plats on file in the General Land Office, approved the nineteenth day of May, one thousand eight hundred and forty-five ---- and is granted unto the said Michael McKinsey and to his heirs the tract of land above described.

TO HAVE AND TO HOLD to the said Raleigh McKenzie his heirs and assigns forever.

GIVEN UNDER OUR HANDS AND SEALS this 6th day of August, 1931.

WITNESSES:

A.H. Malaney (IS)
J.R. Malaney (IS)
Gladys Lowell

STATE OF ALABAMA,
BALDWIN COUNTY.

I, Gladys Lowell a Notary Public in and for said State and County, do hereby certify that A.H. Malaney, a single man; and J. R. Malaney, a single man, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me, on this day that being informed of the contents of the said conveyance, they executed the same voluntarily on the day the same bears date.

GIVEN under my hand this 6th day of August, 1931.

(seal)
Gladys Lowell

The State of Alabama,
Baldwin County,
Probate Court.

Filed in office this 11 day of Aug, 1931, 1:00 P.M., and

duly recorded in Book No. 51 N.S., pages 164-5; and I certify that \$----cts. 50 license or privilege tax paid as required by an Act of the Legislature, approved, September 14, 1928.

G.W. Humphries, Judge of Probate by
J.L. Kessler, Clerk,
G.W. Humphries, Judge of Probate.

STATE OF ALABAMA,

BALDWIN COUNTY,

SS.

I
:
I

I, G.W. Humphries, Judge of Probate in and for said State and

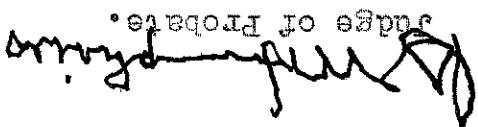
County, hereby certify that the above and foregoing is a true, correct and complete copy of an instrument of writing as the same appears of record in Deed Record 51 N.S., at pages 164 and 165,

now on file in the office of Judge of Probate of Baldwin County,

Alabama.

Witness my hand and the seal of said Court, this 2nd day of

August, A.D., 1938.


Judge of Probate.

Magnolia Springs Land
Company, a corporation
Complainant.

vs.

Ralphy McKenzie
Defendant.

Motion to set aside
decre.

Filed Aug 9th 1932
J. W. Bealman
Register.

MAGNOLIA SPRINGS LAND COMPANY, A Corporation,
 Plaintiff,
 -vs-
 RALEIGH MCKENZIE,
 Defendant.

IN THE CIRCUIT COURT-EQUITY SIDE
 STATE OF ALABAMA
 BALDWIN COUNTY.

TO THE HON. F. W. HARE, JUDGE OF THE TWENTY-FIRST JUDICIAL CIRCUIT:
 Your Orator humbly complaining of the Defendant in a
 manner as will hereinafter appear, shows unto your Honor as fol-
 lows:

1. That the Defendant is a resident of the State of
 Alabama and is over the age of twenty-one years.

2. Your Orator further shows unto your Honor that it
 is in the possession of the following described lands situated in
 Baldwin County, Alabama, to-wit:

The Northwest Quarter of the Southwest Quarter
 (NW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Nineteen (19) Township
 Seven (7) South of Range Three (3) East, being
 part of the Michael McKenzie Private Land Grant
 or Claim, Section Thirty-seven (37) Township
 Seven (7) South of Range Three (3) East; and all
 of Section Thirty-seven (37) Township Seven (7)
 South of Range Two (2) East;

and that there is no suit pending to test the title as to same.

3. Your Orator further shows unto your Honor that the

Defendant, Raleigh McKenzie, is making repeated trespasses on the
 aforesaid lands, interfering with the possession of your Orator,
 and has threatened the agents and employees of your Orator who
 are engaged in cutting the timber therefrom, and that said agents
 and employees of your Orator have been forced to quit work, and
 that all its operations on said lands have been suspended because
 of this interference with the possession of same by the Defendant.

Your Orator further shows unto your Honor that said lands are

chiefly valuable for the timber that is situated and located there-
 on and that unless the said Raleigh McKenzie is restrained and

enjoined from interfering with the possession of your Orator that
 said lands will be practically valueless and that your Orator will
 suffer great loss if it is not permitted the unrestrained use of
 this, its property.

4. Your Orator further shows unto your Honor that

Raleigh McKenzie is not authorized to make said trespass or interfere with the possession of your Orator by any authority whatsoever.

Your Orator further shows unto your Honor that the said Defendant, Raleigh McKenzie, is insolvent and is unable to respond in damages in a Court of Justice.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises your

Orator prays that your Honor will cause the usual Writ of Process to issue to Raleigh McKenzie, making him party defendant to this Bill of Complaint and requiring him to plead, answer or demur to the same within the time required by law.

Your Orator further prays unto your Honor that you will

cause a temporary Writ of Injunction to issue restraining the said Defendant, Raleigh McKenzie, from trespassing on said lands and from interfering with the possession of your Orator in said property.

PRAYER FOR RELIEF.

The premises considered, your Orator prays that upon the

final hearing of this cause your Honor will cause said temporary Writ of Injunction to be made perpetual and forever restraining the said Defendant, Raleigh McKenzie, from trespassing and from interfering with the possession of your Orator in said lands.

Your Orator prays for such other and further relief as

in equity may seem just and meet, and your Orator will ever pray,

etc.

FOOT-NOTE:

Defendant is required to answer Paragraphs 1, 2, 3 and 4 of the foregoing Bill of Complaint, but answer under oath is hereby expressly waived.

Solicitors for Complainant.

Wm. H. Wood

STATE OF ALABAMA,
BALDWIN COUNTY.

Before me, Mary F. Green, a Notary Public in and for

said State and County, personally appeared John Chason, who is

known to me and who after being by me first duly and legally sworn

both depose and say under oath as follows:

That he is one of the Solicitors of Record for the Mag-

nolia Springs Land Company, and as such is duly authorized to make

this Affidavit; and that the allegations contained in the fore-

going Bill of Complaint are true and correct.

John Chason

Sworn to and subscribed before
me, a Notary Public whose seal
is hereto affixed, this 21st
day of October, 1931.

Mary F. Green
Notary Public, Baldwin County,
State of Alabama.

TO THE REGISTER OF THE CIRCUIT COURT, BALDWIN COUNTY, ALABAMA:

Upon Complainant entering into bond with good and suffi-

cient Sureties, in the sum of \$400.00 Dollars, to

be approved by you, you will issue the temporary Writ of Injunction

as prayed for.

Dated this 21st day of October, 1931.

E. W. Hunt
Judge.

RECORDED

BILL OF COMPLAINT.

MAGNOLIA SPRINGS LAND COM-
PANY, A Corporation,

Complainant,

-VS-

RALEIGH MCKENZIE,

Defendant.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Filed Oct 31, 1931

J W Richardson
Register.

LAW OFFICES

HYBART, HEARD

& CHASON

BAY MINETTE, ALABAMA

and from cutting or removing the timber thereon or therefrom or from interfering with the possession of the said Magnolia Springs

The Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Nineteen (19) Township Seven (7) South of Range Three (3) East, being part of the Michael McKenzie Private Land Grant or Claim, Section Thirty-seven (37) Township Seven (7) South of Range Three (3) East; and all of Section Thirty-seven (37) Township Seven (7) South of Range Two (2) East.

Wit:

Following described lands situated in Baldwin County, Alabama, to- hereby commanded and strictly enjoined from trespassing upon the

NOW, THEREFORE, you, the said Raleigh McKenzie, are

according to law.

approved by the Register of said Circuit Court and conditioned

in the sum of \$400 Dollars, payable to and

in accordance with said order, entered into bond with security

AND WHEREAS, the said Magnolia Springs Land Company,

enjoin you as hereinafter mentioned;

Court, an order for the issuance of an Injunction to restrain and

Equity, and has obtained from the Hon. F. W. Hare, Judge of said

its Bill of Complaint in the Circuit Court of Baldwin County-In

WHEREAS, the Magnolia Springs Land Company has exhibited

TO RALEIGH MCKENZIE - GREETINGS:-

the 1st day of Sept., 1932.

Circuit Court-In Equity, to be held at Bay Minette, Alabama, on

and due return thereof to make to us instantler, at a term of our

We command you that without delay you execute this writ

TO ANY SHERIFF OF SAID STATE - GREETINGS:-

BALDWIN COUNTY.

STATE OF ALABAMA.

Defendant.

RALEIGH MCKENZIE,

-VS-

Complainant,

MAGNOLIA SPRINGS LAND COMPANY, A corporation,

IN THE CIRCUIT COURT-IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

(page two)

Land Company as to said land until further orders of this Court.

Witness the hand of the Register and the seal of said

Circuit Court-In Equity, this 2nd day of November, 1931.

Wm. B. Eason

Register.

3 Original

RECORDED
W R I T

MAGNOLIA SPRINGS LAND COM-
PANY, A Corporation,

Complainant,

-VS-

RALEIGH MCKENZIE,

Defendant.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY

Issued November 2nd, 1931

D. McKeown
Register.

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA

Granted November
3-1931 by serving
copy of the within
writ on Raleigh
McKenzie
W. R. Stewart
by witness
D.S.

MAGNOLIA SPRINGS LAND COM-
PANY, a Corporation,

Complainant,

-vs-

RALEIGH MCKENZIE,

Respondent.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

ORDER PERPETUATING INJUNCTION.

This cause coming on to be heard, and having been submitted for Decree upon the Original Bill of Complaint and the Decree Pro Confesso taken against Raleigh McKenzie, and the matter having been heard and duly considered;

IT IS ORDERED, ADJUDGED AND DECREED by the Court that the Temporary Injunction heretofore granted in this cause be, and it is hereby made perpetual, and that a permanent Writ of Injunction issue against the said Raleigh McKenzie, forever restraining and enjoining him, his agents and employees, and each of them, from trespassing upon the following described lands situated in Baldwin County, Alabama, to-wit:-

The Northwest Quarter of the Southwest Quarter of Section Nineteen, Township Seven South of Range Three East, being a part of the Michael McKenzie Private Land Grant, Section Thirty-seven, Township Seven South of Range Three East, and all of Section Thirty-seven, Township Seven South of Range Two East;

and from cutting or removing the timber thereon and therefrom, or from interfering with the possession or occupation of the said

Magnolia Springs Land Company, and it is further ordered, and decreed, that the Defendant be taxed with the costs in this cause, for which let execution issue.
Dated this 15th day of July, 1932.

A. W. Hare

Judge of the 21st Judicial Circuit.

RECORDED

ORDER PERPETUATING INJUNCTION.

MAGNOLIA SPRINGS LAND COMPANY,
A Corporation,

Complainant,

-vs-

RALEIGH MCKENZIE,

Respondent.

IN THE CIRCUIT COURT-IN EQUITY
STATE OF ALABAMA
BALDWIN COUNTY.

Filed July 16th, 1932

J. M. McIlwain
Magistrate

LAW OFFICES
HYBART, HEARD
& CHASON
BAY MINETTE, ALABAMA

The State of Alabama, { No. 1015 CIRCUIT COURT IN EQUITY.
Baldwin County.

MAGNOLIA SPRINGS LAND COMPANY, a corporation Complainant

vs.

RALEIGH MCKENZIE Defendant

Motion is hereby made for a Decree Pro Confesso against RALEIGH MCKENZIE

Defendant

in the above stated cause, on the ground that more than thirty days have elapsed since service of 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 8th day of July 1932

Hyatt, Head & Sherrin Solicitor.

The State of Alabama, }
Baldwin County.

No. 1015

CIRCUIT COURT, IN EQUITY

MAGNOLIA SPRINGS LAND CO., a corporation

Complainant

vs.

RALEIGH MCKENZIE

Defendant

In this cause it appears to the REGISTER
that a Summons requiring the Defendant RALEIGH MCKENZIE

to appear and demur, plead to or answer the Bill of Complaint in this cause within thirty days after the
service of said Summons upon RALEIGH MCKENZIE
was served upon HIM by the Sheriff of BALDWIN County, Alabama, on the
3rd day of NOVEMBER 19 31

filed an appearance, but having
And the said Defendant having failed to demur, plead to or answer the said Bill of Complaint
to this date, it is now, therefore, on motion of Hybart, Heard & Chason

ordered and decreed that the said Bill of Complaint in this cause be and it hereby is in all things taken as
confessed against the said Raleigh McKenzie

Defendant aforesaid.

This 11th day of July 19 32



Register.

The State of Alabama }
Baldwin County

Circuit Court of Baldwin County, Alabama,
(In Equity)

MAGNOLIA SPRINGS LAND COMPANY,
A Corporation, COMPLAINANT

VS.

RALEIGH MCKENZIE, RESPONDENT

I, Mary Green,

as ~~Register and~~ Commissioner

have called and caused to come before me Garrett Foley

witness named in the requirement for Oral Examination, on the 17th day of August

1938, at the office of Hybart & Chason

in Bay Minette, Alabama, and having first sworn said witness to speak the

truth, the whole truth, and nothing but the truth, the said

Garrett Foley doth depose and say as follows:

MAGNOLIA SPRINGS LAND COM-
PANY, A Corporation,

Plaintiff,

-vs-

RALEIGH MCKENZIE,

Defendant.

IN THE CIRCUIT COURT--EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

TESTIMONY OF GARRETT FOLEY.

My name is Garrett Foley. I am over the age of twenty-one years and a resident of Chicago, Illinois. I was a resident of Baldwin County, Alabama, residing at Foley, on October 3rd, 1931. The Magnolia Springs Land Company, a Corporation, was on the 3rd day of October, 1931, the owner of the following described real property in Baldwin County, Alabama, viz:-

The Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Nineteen (19), Township Seven (7) South of Range Three (3) East, being part of the Michael McKenzie Private Land Grant or Claim, Section Thirty-seven (37), Township Seven (7) South of Range Three (3) East; and all of Section Thirty-seven (37) Township Seven (7) South of Range Two (2) East.

That there was no suit pending at that time to test its title to the same, and it was in the actual possession of the same at that time. Raleigh McKenzie, at that time, was making repeated trespasses on the aforesaid land, interfering with the possession of the said Magnolia Springs Land Company, and the said Raleigh McKenzie threatened the agents and employees of the said Magnolia Springs Land Company, which agents were engaged in cutting the timber from said lands at that time. That the agents and employees of the said Magnolia Springs Land Company were forced to quit work, and all of said company's operations on said lands were suspended for a while because of the threats made by the said Raleigh McKenzie against these agents, and by their being put in fear by the said Raleigh McKenzie by the display of firearms, together with the threats to do great violence against their bodies. That the above described lands were chiefly valuable for the timber located thereon, and unless the said Raleigh McKenzie is permanently restrained from interfering with the possession of the said Magnolia Springs Land Company that the lands will be practically valueless and the said

(page two)

Magnolia Springs Land Company will suffer great loss if it is not permitted the unrestrained use of said property. That the said Raleigh McKenzie had no right to go on said lands or interfere in any way with the possession of the said Magnolia Springs Land Company. That the said Raleigh McKenzie was at the time of the filing of the Bill of Complaint in this suit insolvent, and was unable to respond in damages in a Court of justice.


Robert Taylor

ORAL EXAMINTAIION

I, Mary Green as ~~Register~~ Commissioner hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witness and read over to him and he 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 or had proof made before me of the identity of said witness; 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 17th day of August 19 38.

Mary Green (L. S.)

No. 1015

Page

THE STATE OF ALABAMA,
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY

Allegations of fraud and
conspiracy, as
Complaint.
COMPLAINANT.

VS.

Reuben M. Kenzie.

RESPONDENT

ORAL DEPOSITION

Filed August 18, 193 8

P. S. Quick, Register.

RECORDED IN

Record

Vol. Page

, Register

The State of Alabama, {
Baldwin County

CIRCUIT COURT

To MARY GREEN

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

Garrett Foley

as witnesses in behalf of Complainant in a cause pending in our Circuit Court of Baldwin County, of said State, wherein

Magnolia Springs Land Company

Complainant

and Raleigh McKenzie

Defendant,

on oath to be by you administered, upon to take and certify the deposition... of the witness... and return the same to our Court, with all convenient speed, under your hand.

Witness 17th day of August 19 38

R. S. DUCK
clerk, - register

By Deputy

REGISTER

COMMISSIONER'S FEE, \$

WITNESS' FEES, \$

The State of Alabama
BALDWIN COUNTY
CIRCUIT COURT

Magenta Springs Road

Co. 1

Complainant
vs.

A. E. Hughes

Defendant

COMMISSION TO TAKE DEPOSITION

COMMISSIONER:

WITNESSES:

MAGNOLIA SPRINGS LAND
COMPANY, a Corporation,

Complainant

vs.

RALEIGH MCKENZIE,

Defendant

Upon presentation of the motion by the defendant to set aside the decree rendered by me as Judge of the Twenty-first Judicial Circuit of Alabama, on the 15th day of July, 1932, in said cause and grant to the defendant a new trial or rehearing in said cause, it is ordered that said motion be continued from this day until the 16th day of August, 1932, at which date it will be heard at Bay Minette, Alabama.

Dated this 9th day of August, 1932.

RECORDED
INDEXED
Magnolia Springs
Land Co. A Corp.
Complaint.

vs.

Ralene McKenzie
Defendant

Order setting
motion for hearing

8581 NOTE OF TESTIMONY

Magnolia Springs Land Co.,.....

a corporation

vs.

Raleigh Mc Kenzie,.....

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,.....

Bond for injunction, writ of injunction, ^{motion} for decree pro confesso
on personal service and decree pro confesso on personal service.

and in behalf of Defendant upon.....

J. M. Rice

Register.

RECORDED

Duck
2:391

No. 1015.

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

Magnolia Springs Land Co

VS

Raleigh Mc Kenzie,

NOTE OF TESTIMONY

Filed in Open Court this 14th

day of July, 1932

W. H. Richmond

Register

MAGNOLIA SPRINGS LAND COMPANY,
A Corporation,

Complainant,

vs.

RALEIGH MCKENZIE,

Respondent.

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, and
Testimony of Garrett Foley.

~~and in behalf of Respondent~~

R. S. Duck

Register.

by Sawflies Zhanguo
Deputy

RECORDED

Duck
2:391

No. _____

The State of Alabama
BALDWIN COUNTY

IN EQUITY
Circuit Court of Baldwin County

VS.

NOTE OF TESTIMONY

Filed in Open Court this 15

day of August 1935

R. S. Duck

REGISTER

STATE OF ALABAMA,

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That we, the Magnolia Springs Land Company, and the undersigned, as Sureties, are held and firmly bound unto the Register of the Circuit Court, in Equity, for said County in the sum of \$400⁰⁰ Dollars, for the payment of which to the said Register, or to his successors, we bind ourselves, our executors and administrators, jointly and severally.

Sealed with our seals and dated this 31st day of October, 1931.

WHEREAS, the said Magnolia Springs Land Company has filed its Bill of Complaint in the said Circuit Court, in Equity, and has obtained thereon an Order for the issuance of an Injunction from the Hon. F. W. Hare, Judge, to restrain and enjoin Raleigh McKenzie from cutting or removing the timber from or on the following described real estate situated in Baldwin County, Alabama, to-wit:-

The Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section Nineteen (19) Township Seven (7) South of Range Three (3) East, being part of the Michael McKenzie Private Land Grant or Claim, Section Thirty-seven (37) Township Seven (7) South of Range Three (3) East; and all of Section Thirty-seven (37) Township Seven (7) South of Range Two (2) East,

and from trespassing upon said lands or interfering with the possession of the said Magnolia Springs Land Company as to the same.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the said Magnolia Springs Land Company, its successors or assigns, or any of them, shall well and truly pay or cause to be paid all damages which any person may sustain by the suing out of said Injunction if the same is dissolved by the Circuit Court, in Equity, on the Bill filed by the said Magnolia Springs Land Company, as aforesaid, then the above obligation to be void, otherwise to remain in full force and effect.

Witness our hands and seals on the day and year first above written.

Taken and approved this
31 day of October, 1931.

D. M. McMillan
Register.

Magnolia Springs Land Co.
by W. J. Cooney (SEAL)
W. J. Cooney (SEAL)
J. R. Foley (SEAL)

RECORDED

B O N D.

MAGNOLIA SPRINGS LAND COM-
PANY, A Corporation,

Complainant,

--VS--

RALEIGH MCKENZIE.

Defendant.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Filed Oct 31, 1931

Register.

LAW OFFICES

HYBART, HEARD

& CHASON

BAY MINETTE, ALABAMA

MAGNOLIA SPRINGS LAND COM-
PANY, A corporation,

Plaintiff,

vs.

RALEIGH MCKENZIE,

Defendant,

IN THE CIRCUIT COURT,

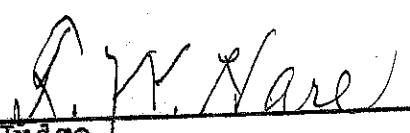
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

No.

The Court having, by order made and duly entered on the 9th day of August, 1932, set this the 16th, day of ^A August, 1932, for the hearing of defendant's motion for a rehearing in the above styled cause, and being unable to hear and determine the same at the time set, it is ordered, adjudged and decreed by the Court that the hearing of said motion be, and the same hereby is specially continued until Thursday, August 25th, 1932, at ten o'clock A. M., at the Courthouse at Bay Minette, at which time said motion will be taken up, heard and disposed of.

Ordered and Decreed this the 16th day of August,
1932.



Judge

RECORDED

Please or Order

Filed Aug 16/1932
J. W. Keenan
Deputy

Aug 16/1932

MAGNOLIA SPRINGS LAND
COMPANY,

Complainant,

-vs-

RALEIGH MCKENZIE,

Respondent.

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

BRIEF OF COMPLAINANT ON SUBMISSION ON DEMURRER TO BILL
OF COMPLAINT:

The bill in this case sets forth that the Complainants are in the possession of certain lands in Baldwin County, Alabama. That through its agents and employees it is engaged in cutting the timber therefrom. That the defendant has forced the said agents and employees to quit work, and that Complainants operation on said lands have been suspended because of the interference with the possession of said lands by the defendant. That said lands are chiefly valuable for the timber that is situated and located thereon, and that unless this interference is stopped, and these trespasses enjoined that said lands will be practically useless and that Complainant will suffer great loss if this conduct is continued.

The Bill further stipulates that the Defendant is insolvent. The underlying equity principals, or grounds for injunction are several.

1. The injunction will prevent a multiplicity of suits.

"Equity will interpose to avoid a multiplicity of suits without the aid of independent equity."

Southern Steel Co. v. Hopkins,
157 Alabama, 175.

2. "Equity will interpose on a theory that the Complainant would suffer irreparable injury."

Gulf Compress Co. vs. Harris,
158 Alabama, 343.

If Complainants are engaged in the cutting of this timber and he has been prevented from doing so, who can say with certainty what profit he would be able to make out of it manufacture and what could he expect to gain, or would he gain by suing an insolvent trespasser. Under the circumstances his damages certainly would be irreparable.

3. Another ground of equity intervention is repeated trespasses, which would, of course, amount to a multiplicity of suits. We believe that the case of Woodstock operating Company vs. Quinn, 201 Alabama, 681, is decisive of the several propositions raised by the demurrers.

We contend that the bill sets forth a clear out case for equity intervention by way of injunction.

Respectfully submitted,

Hyatt, Head & Chasman
Solicitors for Complainant.

UNION PRODUCING COMPANY

SHREVEPORT • LOUISIANA

March 20, 1940

In re: Lease No. 50083
Milton L. Brown, et al
Baldwin County, Alabama

Mr. Milton L. Brown
Mobile, Ala.

Dear Sir:

We hand you herewith original release dated February 13, 1940, duly executed by Union Producing Company surrendering all right, title and interest, in and to, the above numbered lease.

We suggest that you have this release recorded in order to clear your title of this lease encumbrance.

Yours very truly,

UNION PRODUCING COMPANY

M. T. Glass, Land Dept.

by

D. H. Marston
D. H. Marston

dj/
enc.

cc Mr. R. F. Gibson
Mr. J. P. Rogers

Respondent

BRIEF

The authority of an equity court to issue an injunction against trespasses is very concisely stated in Cullman Property Company v. H. H. Hitt Lumber Company et al 201 Ala. 150, 157 as follows:

"Inadequacy of legal remedies is the foundation and indispensable requisite for the intervention of chancery to enjoin trespasses. This, because legal remedies have been devised to redress such wrongs, and if these remedies are adequate equity has no right to intervene. The bill therefore must aver facts which show the legal remedies to be inadequate. This may be done by alleging facts which show that the wrong is destructive of the substance of the estate, or that the damages are incapable of ascertainment in a court of law, or of compensation in money value; or that the defendant is insolvent and cannot be made to respond in damages; or that the wrong is vexatiously persisted in, in spite of repeated verdicts, and that to redress it in courts of law would require a multiplicity of actions at law; or

probably other reasons not enumerated above."

To like effect are the following cases:

Deegan et al v. Neville 127 Ala. 471
 H. H. Hitt Lumber Co. et al v. Cullman
 Property Co. 189 Ala. 13
 Tidwell v. H. H. Hitt Lumber Co. 198 Ala. 236

The bill sets out the following facts: The age of the complainant, description of the property and charges that the complainant made repeated trespasses upon the property described, threatened the agents and employees of the complainant who were engaged in cutting the timber, who ceased operations; that the chief value of the property is for the timber and that the respondent was not authorized to make said trespasses, is insolvent and unable to respond in damages in a civil suit.

As to pleading facts in bills of this kind, the following quotations from Cullman Property Company v. H. H. Hitt Lumber Company 201 Ala. 150, 154 states the law:

"Bills must contain a clear and orderly statement of the facts without prolixity or repetition, and conclude with a prayer for appropriate relief. No combination or confederacy is necessary. The courts discountenance prolixity and false allegations, Code, Sec. 3094. It is only necessary to allege facts, not evidence nor conclusions. Bills should be sustained on the facts, alleged, and not those inferred. A general charge of fraud without facts is insufficient. Argumentative allegations and expressions of opinion in bills are objectionable. Bills are construed against the pleader, and facts not averred are deemed not to exist."

"These general rules of equity pleading

both of which are conclusions of the pleader and sustained by no facts averred. It is not averred that the respondent injured the property or threatened to injure the property. The nature of the threats themselves are not set out. The most that could be inferred from the facts averred is that the respondent threatened personal violence to the agents of the complainant and because of these threats the agents ceased work. This is putting the most favorable construction upon the averment which is more than the complainant is entitled to as the pleading should be constructed against the pleader. The complainant cannot give his bill equity by averring conclusions, facts must be set out and these clearly, otherwise the bill is demurrable.

As to what facts a complainant must aver to show an inadequate remedy at law to entitle him to injunctive relief depends upon each particular case. No general rule can be laid down as pointed out in the case cited above. Each case must be decided upon its merits. But enough facts must be averred to show that the complainant's remedy at law is inadequate. Injunction is an extraordinary process and a complainant is not entitled to it as a matter of right but its issuance rest within the sound discretion of the court. Power to grant an injunction will not be exercised to enforce a right or prevent a wrong which is wholly in the abstract, or where only legal questions are involved.

Cullman Property C. v. H. H. Hitt Lumber Co.
et al 201 Ala. 150, 154

At stated above putting the most favorable construction upon the averments of the pleader the most the respondent is charged with is threats against the person of the employees of the complainant. Assuming, for the sake of argument but without conceding it, that this is what the pleader meant, still the injunction should not be issued. Equity will not grant an injunction to prevent a crime or to prevent violence against the person as there is an adequate remedy at law in the criminal courts. There is no averment of injury or threatened injury to the property.

Montgomery and W. P. R. Co. v. Walton 14 Ala. 207
32 C. J. 276

If the injunction does not issue, the respondent can be brought in and tried in the Criminal Court for the acts complained of. If the injunction does issue and the respondent breaches the injunction, he will be brought in and tried by the judge for contempt. The property in neither instance suffers. In its final effect the result to the respondent is the same, namely a fine or imprisonment. In effect it substitutes an equity judge for a jury. It is said in 32 C. J. 276:

"It is not the intention of the law that Constitutional provisions shall be evaded by substituting a civil for a criminal procedure or a single judge for a jury;"

The grounds of the demurrer to the bill points out the defects argued and the same should be sustained.

Respectfully submitted,


ATTORNEYS FOR RESPONDENT

MAGNOLIA SPRINGS LAND
COMPANY,

Complainant,

-vs-

RALEIGH MCKENZIE,

Respondent.

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

STATE OF ALABAMA ON SUBMISSION ON DEFENDANT TO BILL
OF COMPLAINT:

The bill in this case sets forth that the Complainants are in the possession of certain lands in Baldwin County, Alabama. That through its agents and employees it is engaged in cutting the timber therefrom. That the defendant has forced the said agents and employees to quit work, and that Complainants' operation on said lands have been suspended because of the interference with the possession of said lands by the defendant. That said lands are chiefly valuable for the timber that is situated and located thereon, and that unless this interference is stopped, and these trespasses enjoined that said lands will be practically useless and that Complainant will suffer great loss if this conduct is continued.

The Bill further stipulates that the Defendant is insolvent. The underlying equity principals, or grounds for injunction are several.

1. The injunction will prevent a multiplicity of suits.

"Equity will interpose to avoid a multiplicity of suits without the aid of independent equity."

Southern Steel Co. v. Hopkins,
157 Alabama, 173.

2. "Equity will interpose on a theory that the Complainant would suffer irreparable injury."

Gulf Congress Co. vs. Harris,
158 Alabama, 343.

If Complaints are engaged in the cutting

of this timber and he has been prevented from doing so, who can say with certainty what profit he would be able to make out of it manufacture and what he expects to gain, or would he gain by suing an insolvent trespasser. Under the circumstances his damages certainly would be irreparable.

3. Another ground of equity intervention is repeated trespasses, which would, of course, amount to a multiplicity of suits. We believe that the case of Woodstock Operating Company vs. Quinn, 201 Alabama, 681, is decisive of the several propositions raised by the defendants.

We contend that the bill sets forth a clear out case for equity intervention by way of injunction.

Respectfully submitted,

Hyatt, Wend & Chown
Solicitors for Complainant.

BRIEF OF COMPLAINANT.

MAGNOLIA SPRINGS LAND CO.,
Complainant,

-VS-

RALEIGH MCKENZIE,
Respondent.

1 Magnolia Springs Land } On the Centennial Court
 2 Company a Corporation } of Baldwin County
 3 Complainant } Alabama
 4 vs
 5 Raleigh K. Kerzner }
 6 Defendant }

7
 8 Comes to Taylor an attorney
 9 and files this appearance in this
 10 cause with leave to answer
 11 or plead specially or generally

12
 13 H. C. Taylor
 14 Attorney for defendant
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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 Raleigh McKenzie

of Baldwin 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 Magnolia Springs Land Company, a corporation

against said Raleigh McKenzie

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 2nd day of

Nov., 1931

T. W. Richerson Register.

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

RECORDED
Original

Serve on _____
Circuit Court of Baldwin County
In Equity.

No. _____
SUMMONS

Magnolia Springs Land Co.,
a corporation

vs.
Raleigh Mckenzie

Hybart, Heard & Chason
Solicitor for Complainant.

Recorded in Vol. _____ Page _____

RECORDED
The State of Alabama,
BALDWIN COUNTY.

Received in office this _____
day of _____ 193

Sheriff.

Executed this 3^d day of December 193

by leaving a copy of the within Summons with
Raleigh M. McKenzie

Defendant.

Sheriff.

By Wilson
Deputy Sheriff.