

State of Alabama,
Baldwin County -

To any sheriff of the State of Alabama.

You are hereby commanded to summon H. England to appear within thirty days from the service of this complaint in the circuit court to be held for said county at the place of holding the same, then and there to answer the complaint of R.C.A. Sonneman.

Witness my hand this 21st day of July, 1936.

Robert S. Duck CLERK -

R.C.A. Sonneman,
Plaintiff -

Vs

H. England,
Defendant -

1. The plaintiff claims of the defendant the sum of one thousand dollars damages for a trespass by the defendant in that the defendant entered upon land owned by the plaintiff, being the East Half of the Northwest Quarter of the Northwest Quarter of Section 34, Township 7 South, Range 4 East, in Baldwin County, Alabama, knowing it to be the land of the plaintiff and said land being in possession of the plaintiff by his tenant or agent, and did wilfully cut and remove from said land standing trees the property of the plaintiff, without the permission or consent of the plaintiff, the number and size of said trees not being known to the plaintiff; said trespass having been committed by the defendant or his authorized agents *within the limit of 28 days of February, 1935.*

John Gilmer
Attorney for plaintiff.

The plaintiff requests trial by jury.

John Gilmer
Attorney for plaintiff.

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RECORDED
Book
7-530

R.C.A. Sonnenman -

Vs

H. England -

Complaint -

15

Filed July 21, 1936-

Robert S. Buck
Clerk.

THOMAS W. GILMER
ATTORNEY-AT-LAW
BAY MINETTE, ALA.

(113)

Rec in office
7/21/36
M. H. Ferguson

Received 23rd Day of July 1936
and on 15th Day Aug 1936
I served a Copy of the within Com & Laws & Summons
on H. England.
by service on
as
J. L. HOLCOMBE, Sr., Sheriff
M. H. Ferguson D. C.

R. C. A. SOMMERMAN,

Plaintiff,

VS.

H. ENGLAND,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

At Law.

And now comes the Defendant and demurs to the Plaintiff's complaint heretofore filed in this cause, and for ground thereof says:

FIRST:

That said complaint does not state a cause of action.

SECOND:

That there is a misjoinder of parties defendant.

THIRD:

That there is a misjoinder of causes of action.

FOURTH:

That said complaint is duplex.

FIFTH:

That said complaint is in the alternative in that it states that said trespass was committed either by the Defendant or by his agents.

SIXTH:

That said complaint does not allege that the agents were acting within the line and scope of their employment.

Beckwith

Attorney for Defendant.

RECORDED
Duck
7-531

DEMURRER

R. C. A. SONNEMAN,

Plaintiff,

vs.

H. ENGLAND,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

at Law.

Filed Aug. 28, 1936
R. S. Duck, Clerk.

R.O.A. Sonneman,
Plaintiff -

Circuit Court.

Vs.

Baldwin County, Alabama -

H. England,
Defendant-

AT LAW

Interrogatories propounded by the plaintiff to the defendant under Sections 7764 - 7773 of the Code of Alabama, 1923, which the plaintiff requires that the defendant should answer -

1. Did the defendant cut standing pine timber, or have the cutting done by his authorized agent, on the land of the plaintiff, to-wit the E2 of the NW4 of the NW4 of section 34, T.7S, R.4E in Baldwin County, Alabama?
2. How many trees standing on the said land of the plaintiff did the defendant cut or have cut?
3. Were the trees cut on the land of the plaintiff by the defendant or his agents sawed into lumber and, if so, what was the total of lumber sawed from said logs and the total amount of cash realized therefor by the defendant from the sale of said lumber?
4. Did the defendant sell said logs as piling and what was the total amount paid therefor to the defendant by the parties to whom he sold the logs?
5. If the said logs were sawed into lumber and sold as lumber to whom did the defendant sell the lumber? and when?
6. If the said logs were sold as piling to whom did the defendant sell the piling? and when?
7. How many of said trees and logs were there?
8. What were the dimensions of said logs, their diameter at the butt and their lengths?
9. What written authority from the plaintiff did the defendant have to cut and remove said standing trees?

State of Alabama,
Baldwin County -

Before me, John Reason a notary public in and for said county and state, personally appeared Thos. W. Gilmer who, being by me duly sworn, says that he is the attorney of record for the plaintiff in the foregoing suit and that as such attorney he propounds the foregoing interrogatories to the defendant and that the answers of the defendant thereto will be material evidence for the plaintiff in said suit.

Subscribed and sworn to
before me this 8th day of
September, 1936.

John Reason
Notary public for Baldwin County, Alabama.

original

R.C. & Lomenway

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H. England.

Interrogatories

Filed Sept 8, 1936

R. S. Duck,
Clerk

Severin accepted
this 9/8/36
Deben Hall Reber
C. H. Hall

R. C. A. Sonneman, Plaintiff.

Vs.

Circuit Court, Baldwin County, Ala.

H. England, Defendant.

Interrogatories propounded by plaintiff to the defendant under sections 7764-7773 of the code of Alabama of 1923, which the plaintiff requires that the defendant answer.

1. Did the defendant cut standing pine timber, or instructed his employees to cut and remove from the land of plaintiff, to-wit:- E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ Sec. 34 T. 7 S. R. 4 E in Baldwin County?

Please state fully what instructions you gave said employees or servants.

2.- Please give the names and addresses of the persons who went on the land of plaintiff and cut and removed said timber.

3. State fully how many trees were cut by your servants or employees on the land of plaintiff. Please answer fully and give no yes and no answers.

4. Did the defendant sell said logs separate from other logs, and if so what was the price received for each log or piling? Was there not sixty logs taken from said land of plaintiff. Please attach copy of the invoice showing price received for each log.

5th. Please state the dimensions of said logs, and what was the market price of the logs of the same dimensions on Feb. 28, 1935, when these logs were sold by you?

6- Did the defendant cut down any other trees on said land except the 60 trees cut down and removed by defendant, and if so state the number and dimensions and price of same?

7- What other damage to said land did defendant commit besides taking the 60 trees - state fully.

8- If you said you had a contract with the plaintiff authorizing you to cut and remove the timber, please attach a copy of said contract to your answers, and also copies of all letters, and any deed you may have selling to you said trees? Answer fully.

State of Alabama,

Baldwin County.

Before me, Mary D. Allen, A notary Public and for said County, in said State, personally appeared W. H. Hawkins, who being by me duly sworn, says that he is the attorney of record for the plaintiff in the foregoing suit and that as such attorney he propounds the foregoing interrogatories to the defendant and that the answers of the defendant will be material evidence for the plaintiff in said suit.

W. H. Hawkins

Subscribed and sworn to before

me this the 16th. day of March 1937.

Mary D. Allen

Notary Public, Baldwin County, Alabama.

Interrogatories to be
propounded to Deft

R. Q. C. Sommerman
Pltff

N. E. England
Deft

Filed March 16, 1932
R. S. Duck, clerk

R. C. A. Sonneman Plaintiff.

vs.

In Circuit Court of Baldwin County, Ala.

H. England, Defendant.

Comes the Plaintiff and amends his complaint heretofore filed in this Court on to-wit:-- July 21, 1936, to read as follows.

Count One.

The Plaintiff claims of the defendant, H. England, the sum of One Thousand Dollars damages for a trespass by the defendant, in that, the defendant on to-wit:-- February 28, 1935 and previously thereto had commanded, instructed and directed his servants and employees to enter upon land belonging to and in possession of plaintiff, being the East Half of the Northwest Quarter of the Northwest Quarter of Section 34, Township 7 South of Range 4 East, in Baldwin County, Alabama, and defendant knowing it to be the land of plaintiff and in plaintiff's possession by his tenant or agent, and acting under orders and instructions from defendant, the said servants and ~~and~~ employees of defendant, cut and carried away timber for piling from said land, to-wit:-- sixty trees or logs, each measuring ten to twelve inches at the butt and from six to eight inches at the top and approximately twenty five to thirty feet in length, and that other damage was done at the same time by defendants servants and employees acting under his orders and instructions, in cutting down smaller trees, driving over his land with trucks and causing his land to be cut up in places and holes to wash in his cultivated land.

This trespass was committed on to-wit:-- February 28, 1935, under the orders and direction and with the knowledge of defendant.

That said trespass was made in the absence of Charles L. Salz, the tenant of plaintiff, and over the protest of Mrs. Chas. L. Salz, the wife of the tenant of plaintiff, and without the consent of plaintiff.

That subsequently to the taking and removing of said trees from the land of plaintiff, the defendant ratified the acts of his servants and employees by accepting and selling the piling for a good price, and plaintiff avers that said trespass was wrongfully made by defendant and without the consent of plaintiff or his tenant or without the previous knowledge of plaintiff or his tenant.

All to his damage in the said sum of One Thousand Dollars.

Count Two.

Plaintiff claims of the defendant the sum of One Thousand Dollars for a ^Ntrespass by defendant, acting by and through his servants and employees, who had been previously directed, instructed and commanded by defendant to do so, with force and arms, on to-wit:- February 28, 1935, went upon the following described land of plaintiff being the East Half of the Northwest Quarter of the Northwest Quarter of Section 34, Township 7 South of Range 4 East in Baldwin County, Alabama, and in the absence of plaintiff or his agent or tenant, did forcibly cut and remove from said land about sixty standing trees each measuring ten to twelve inches at the butt and from six to eight inches at the top and about twenty five to Thirty feet in length, and in pursuance of the instructions of defendant, said servants and employees of defendant, did much damage to smaller trees of plaintiff and damaged the land of plaintiff to a considerable extent.

That said forcible and unlawful trespass was made over the objections and protests of Mrs. Charles L. Salz, the wife of the tenant of plaintiff.

That defendant afterwards sold said timber for piling in Mobile, Alabama, and received a good price for same, but he has refused and still refuses to state the price he received for said piling nor pay plaintiff the money he received for the timber unlawfully taken from said land.

Count Three.

Plaintiff claims of the defendant exemplary damages in the sum of One Thousand Dollars, for that defendant wrongfully, wilfully, wantonly and intentionally trespassed on the land of plaintiff, to-wit:-East Half of the Northwest Quarter of the Northwest Quarter of Section 34, Township 7 south of Range 4 East, in Baldwin County, Alabama, on the 28th day of February 1935, by instructing, ordering and commanding his servants and employees to go upon said above described land owned by plaintiff, and cut and remove therefrom certain timber for piling, knowing at the time that he had no authority from plaintiff to do so, and that acting under the instructions of defendant, said servants did cut and remove from the land of plaintiff about sixty large trees, and cut quite a number of small trees, drove over and cut up said land in cutting down and removing said timber from said land.

That Mr. Chas. L. Salz, the tenant was absent from the land on that day, but although Mrs. Salz, the wife of said tenant objected to this trespass, the defendants servants or employees, acting under instructions from defendant, persisted in cutting and removing said timber and committing other acts of trespass.

That after defendants servants and employees, had cut and removed said timber from the land of plaintiff in accordance with the instructions of defendant, the said defendant sold said timber for a good price, and willfully appropriated the sum received for said timber without reimbursing plaintiff and refused and still refuses to state the price he received therefor, for which willful and unlawful trespass, plaintiff claims as exemplary damages the said sum of One Thousand Dollars, hence this suit.

Count Four.

The Plaintiff claims of the defendant One Thousand Dollars for the conversion by him on the 28th. day of February 1935 60 pine logs, each measuring ten to twelve inches at the butt and from six inches to eight inches at the top and about twenty five to Thirty feet in length, the property of plaintiff.

Count Five.

The Plaintiff claims of the defendant One Thousand Dollars damages for wrongfully taking the following goods and chattels, the property of the plaintiff, viz.:- Sixty pine logs each measuring ten to twelve inches at the butt and from six inches to eight inches at the top and about twenty five to thirty feet in length.



Attorney for Plaintiff.

RECORDED
8-53

R. C. A. Sommerman
Plaintiff
Vs

N. England

Amended Complaint

Filed March 16, 1937.
R. B. Duck,
clerk.