

428

SUMMONS--ORIGINAL.

The State of Alabama, { Circuit Court of Baldwin County, In Equity.  
Baldwin County. }

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

WE COMMAND YOU, That you summon \_\_\_\_\_

DR. F. B. MOORE,

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

D. Z. GROVE,

against said DR. F. B. MOORE,

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, R. S. Duck Register of said Circuit Court, this 21st day of July 1938

R. S. Duck Register

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

The State of Alabama, { Circuit Court of Baldwin County, In Equity  
Baldwin County }

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon

BANK OF FAIRHOPE, A CORPORATION,

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

D. Z. GROVE,

against said BANK OF FAIRHOPE, A CORPORATION,

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, Robert S. Duck, Register of said Circuit Court, this 9th day of June 1938

R. S. Duck Register

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

D. Z. GROVE;

Complainant,

-vs-

BANK OF FAIRHOPE; a  
Corporation,

Respondent.

IN THE CIRCUIT COURT OF BALDWIN  
COUNTY, ALA BAMA. IN EQUITY.

ANSWER.

Comes your Respondent, the Bank of Fairhope, a corporation, and in answer to the bill of complaint heretofore filed says:

Respondent admits the allegations in paragraph numbered ONE of the complaint.

To paragraph numbered TWO: Respondent admits it had in its possession the TWO HUNDRED DOLLARS claimed by the Complainant, D. Z. GROVE and Dr. F. B. Moore, and says it is ready, willing and anxious to pay said money after deducting its proper charges allowed by this Court to the party entitled thereto, but admits no other allegation in said paragraph.

Respondent is not informed as to the allegations contained in paragraph numbered THREE of the Complaint.

HAVING FULLY ANSWERED, Respondent says that it is alleged to have TWO HUNDRED DOLLARS in its possession which is claimed by D. Z. Grove, the Complainant and Dr. F. B. Moore, and brings this its Cross-complaint in the nature of a bill of interpleader in this cause wherein this Honorable Court has jurisdiction over the parties in this case and the amount in controversy under section 10390 of the Code of Alabama.

WHEREFORE RESPONDENT PRAYS that the said F. B. Moore, of Fairhope, Baldwin county, Alabama be made the party defendant and required to answer said bill and show his claim to said monies claimed by the Complainant in accordance with the law in such cases made and provided.

Respondent FURTHER PRAYS that on a hearing of this cause the Court determine to whom said monies belong and allow this Respondent a reasonable sum for counsel fees to pay for the services of its solicitor in this cause, out of said fund. Respondent having thus fully answered, awaits the Court's determination of this claim

and prays that it be allowed to go hence with its costs after having paid said money to the party to whom the Court finds said monies belong.

RESPONDENT FURTHER PRAYS for such other, further or different relief as to equity may seem meet.

  
SOLICITOR FOR RESPONDENT.

FOOTNOTE: D. Z. Grove and F. B. Moore are required to answer each and every paragraph of this bill in the nature of interpleader but not under oath, oath being hereby expressly waived.

  
SOLICITOR FOR RESPONDENT.

Dr. F. B. Moore is a resident of Fairhope, Baldwin county, Alabama, and can be served there.

D. Z. GROVE,

Complainant,

VS.

THE BANK OF FAIRHOPE, a  
Corporation,

Respondent,

VS.

F. B. MOORE,

Cross-Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY. NO. 428.

DEMURRER TO CROSS BILL.

Now comes the Cross-Respondent, F. B. Moore, and for demurrer to the Cross-Bill filed herein by the Respondent, The Bank of Fairhope, a Corporation, sets down and assigns, separately and severally, the following grounds, namely:

1. There is no equity in the Cross-Bill.
2. The Cross-Bill does not contain the allegations necessary to show that the Cross-Complainant is entitled to the relief sought or to any relief.
3. The Cross-Bill is uncertain and indefinite in its allegations as to those matters on which counter relief is sought.
4. The Cross-Bill does not contain all the proper allegations which confer an equitable title to the relief sought or any other relief.
5. The Cross-Bill does not set out or disclose any new matter or new allegations showing an independent right to relief against this Cross-Respondent.
6. The Cross-Bill does not show the capacity or want of capacity of this Cross-Respondent to be sued.
7. It is not averred or shown by the said Cross-Bill that this Cross-Respondent is a person capable of being sued.
8. For aught that appears from said Cross-Bill, this Cross-Respondent is not a proper party to this cause.

9. The allegations of said Cross-Bill are vague, indefinite and uncertain.

J. B. T. Spohler  
Solicitor for Cross-Respondent.

E. G. RICKARBY, JR.

ATTORNEY AT LAW

POPPE BUILDING

MOBILE ALABAMA

Fairhope, July 18, 1938.

Honorable Robert S. Duck,  
Register in Chancery,  
Bay Minette, Alabama.

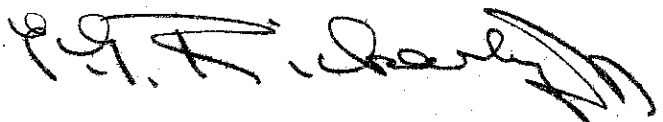
Dear Bob:-

Enclosed you will find answer of the Bank of  
Fairhope in the case of D. Z. Grove v. them, in equity.  
Please acknowledge receipt of this.

In this matter we have come in under code section  
16390, suggested that Dr. F. B. Moore claims this money  
and the procedure is for you to issue a subpoena to him  
and he comes in and fights for this money.

Thanking you for giving this matter your attention,

I am, yours very truly,



Co. Orvis M. Brown, Esq.,  
Robertsdale, Alabama.

By the enclosed you will see that I have send copy  
of the bill to Mr. Groves attorney who will acknowledge  
service.

XXXX

Fairhope, July 18, 1938.

Mr. Orvis M. Brown,  
Attorney at Law,  
Robertsdale, Alabama.

Dear Orvis:

Enclosed find copy of the Bank of Fairhope's answer in the Grove matter. I am sending the original answer direct to M r. Duck and ask that you acknowledge service of this the next time you are in court. I contend and believe you agree with me that once we get Dr. Moore in for you to fight with all we have to do is to sightight and pay the winner. I ask that you keep me informed and as soon as a decree is rendered notify me or the Bank so that there need be no execution for this money.

With personal regards, I am,

Yours very truly,

CC. Robert S. Duck, Esq.,  
Register in Chancery.





BILL OF COMPLAINT

STATE OF ALABAMA

COUNTY OF BALDWIN

To The Honorable F. W. Hare, Judge of the Circuit Court of  
Baldwin County, Alabama; Sitting in Equity:

Your Orator, D. Z. GROVE, brings this bill of complaint against THE BANK OF FAIRHOPE, a Corporation, and thereupon your Orator complains and shows unto this Court as follows:

FIRST: Your Orator, D. Z. Grove, is over the age of twenty-one years and a resident of Baldwin County, Alabama, namely, at Marlow, Alabama. The Respondent, Bank of Fairhope, a corporation organized under the laws of the State of Alabama whose principal place of business is Fairhope, Alabama.

SECOND: The Respondent, the Bank of Fairhope, Fairhope, Alabama has in its possession the sum of TWO HUNDRED (\$200.00) DOLLARS in money which was paid to it by A. W. CALVERT which money is now claimed by two or more persons, namely, your Orator, D. Z. Grove and one Dr. F. B. Moore of Fairhope, Alabama, and that your Orator has made demand upon the Respondent for the payment of this sum of money and that the Respondent, Bank of Fairhope, claims that it cannot pay the money to your Orator as it is claimed by Dr. F. B. Moore who alleges that he is an assignee of the contract between your Orator and A. W. Calvert and the Respondent alleges that demands have been made on them by F. B. Moore for the payment of the money to him; Wherefore your Orator files this bill of complaint for the purpose of determining the ownership of the said money and for the purpose of clearing up all doubts and disputes relative thereto.

THIRD: Your Orator has a written contract with one A. W. Calvert for the sale of certain piece of property in Baldwin County, Alabama whereby this Two Hundred Dollars (\$200.00) now in question was placed in escrow by A. W. Calvert with the Bank of Fairhope, the Respondent, with instructions to deliver the same when your Orator prepared an abstract and was in position to deliver a merchantable title and warranty deed to the property and your Orator shows further that he has complied with all of the terms of his contract with the said A. W. Calvert and has presented or tendered

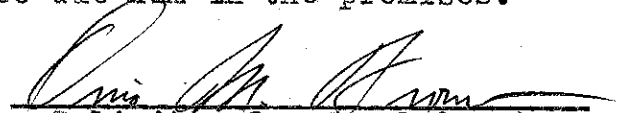
or offered the Abstract of title complete to date and notified them that he is ready and willing to execute the warranty deed to the property and the abstract has been delivered to the said A. W. Calvert by his attorney and his opinion rendered thereon stating that the abstract shows a merchantable title to the property and that your Orator has been at all times ready and willing to perform his part of the contract and that the said A. W. Calvert or the Assignee of A. W. Calvert, Dr. F. B. Moore has at all times failed and refused to perform his part of the contract and that the Respondent, the Bank of Fairhope has refused to pay the money to your Orator to which he is entitled.

PRAYER FOR PROCESS

Your Orator prays that the said Bank of Fairhope be made party Respondent to this bill of complaint and that the usual process of this Honorable Court to forthwith issue to it.

PRAYER FOR RELIEF

Your Orator further prays that upon the hearing of this complaint your Honor will determine to whom the said money will or any part thereof belong and shall be paid, settle all doubts and disputes concerning the same and allow your Orator a reasonable sum for counsel fees incurred in the bringing of this suit to be charged to the party at fault for the non-payment of said money. Your Orator prays for such other, further, and general relief as in equity and good conscience may be due him in the premises.

  
Solicitor for Complainant.

FOOT NOTE: The Respondent is required to answer each and every paragraph of the foregoing complaint numbering from one to three both inclusive but not under oath, the benefit whereof is hereby expressly waived.

  
Solicitor for Complainant.

(original)

188

RECORDED *Done*  
7-183-

Serve on Bank of Fairhope,  
Fairhope, Ala.

**Circuit Court of Baldwin County  
IN EQUITY**

No. 428

**SUMMONS**

D. Z. GROVE,

Complainant,

VS.

THE BANK OF FAIRHOPE,

a Corporation,

Respondent.

ORVIS M. BROWN,

Solicitor for Complainant

**THE STATE OF ALABAMA,**

**BALDWIN COUNTY**

Received in office this \_\_\_\_\_

day of \_\_\_\_\_, 193\_\_\_\_\_

SHERIFF

Executed this 28th day of

June 1938

by leaving a copy of the within Summons with

*Kirby A. Stanton as process*

*of the Bank of Fairhope*  
Defendant

*M. W. Williams*  
Sheriff

By *Orvis M. Brown*  
Deputy Sheriff

191  
(original)

SERVE ON \_\_\_\_\_  
Circuit Court of Baldwin County  
IN EQUITY

No. 488

SUMMONS

D. Z. GROVE,  
Complainant,

vs.

BANK OF FAIRHOPE, a Corp.,  
(Dr. F. B. Moore) Respondent,

MERVIS M. BROWN,  
Solicitor for Complainant

Recorded in Vol. \_\_\_\_\_ Page \_\_\_\_\_

RECORDED 4-495

*Paul*

THE STATE OF ALABAMA,  
BALDWIN COUNTY

Received in office this \_\_\_\_\_  
day of \_\_\_\_\_ 193\_\_

SHERIFF

Executed this 26<sup>th</sup> day of July 193\_\_  
by leaving a copy of the within Summons with  
Dr. F. B. Moore

Defendant

*M. Stults*  
Sheriff

By *John R. Davis*  
Deputy Sheriff

*Completed  
4-26-35*

RECORDED *Duch*  
7-48

D. Z. GROVE,  
Complainant,

vs.

BANK OF FAIRHOPE, a Corp.,  
Respondent.

428

BILL OF COMPLAINT.

*Bill for damages*  
*Wagon*

Filed this 9 day *June* 1935  
*P. S. Duch*  
Clerk-Register

Filed this 9 day *June* 1935  
*P. S. Duch*  
Clerk-Register