

1507

J. D. TAYLOR AND GEORGE  
BROWN

PLAINTIFFS

VS

ROSS BEMIS AND FRED  
BEMIS

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW

Now comes the Defendants acting by and through their attorney and move the court to set aside the judgment by default heretofore rendered in this cause on to-wit: July 7, 1950, and for grounds thereof say:

1.

That the Defendants have a meritorious defense to the Plaintiff's cause of action.

2.

That the Defendants and their predecessors in title have been in the open, visible, adverse, and continuous possession of the said land for more than twenty years prior to the commencement of this suit.

3.

That the Defendants, Ross Bemis and Fred Bemis are only two of the claimants of said property, the other claimants being Eddie Bemis, Evelyn Johnson, Harry Bemis, Earle Bemis, Kathleen Benton, Walter Bemis, Rosa Ewing, Erma Allen and Carol Bemis.

4.

That there was an outstanding oral agreement between the attorney of record for the Plaintiffs and the attorney of record for the Defendants that an effort would be made to settle the controversy; that the attorney for the defendants was under the impression gathered from conversation with the attorney for the Plaintiffs; that the matter would be held open and that it would not be necessary to file any pleadings until a definite answer could be secured from the Defendants.

5.

That the failure to file an appearance within the time required by law was a result of the belief on the part of the attorney for the Defendants that no further pleadings were necessary until word could be received by him from the Defendants.

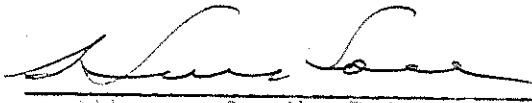
6.

That immediately the judgment was entered the attorney for the defendants had a conversation with the attorney for the Plaintiffs and it was agreed in substance that the matter would be held in abeyance until the attorney for the defendants could get in touch with them and determine as to the proposition of the settlement.

7.

That the attorney for the Defendants has just today gotten in touch with the Defendants, and that it is very doubtful that a settlement can be reached.

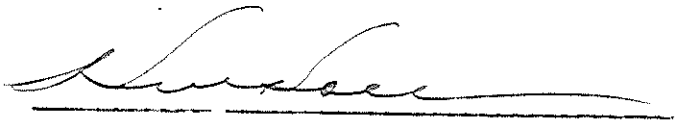
Wherefore it is prayed that said judgment of default heretofore entered in this cause be set aside and that this cause be restored to the trial docket, and that the Defendants be permitted to file the appropriate pleadings.

  
Attorney for the Defendants

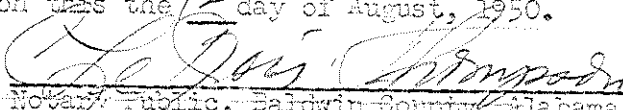
STATE OF ALABAMA

BALDWIN COUNTY

Before me the undersigned authority, in and for said County, in said State, personally appeared H. M. Hall, who is known to me, and who having been by me first duly sworn, deposes and says that he is attorney for the Defendants in the above cause; that the facts contained in the foregoing motion are true.



Sworn to and subscribed before me on this the 12 day of August, 1950.

  
Notary Public, Baldwin County, Alabama

15-07  
RECORDED

FILED  
AUG 14 1950  
ALICE J. DUCK, Clerk

J. D. TAYLOR and	)	
GEORGE BROWN,	)	
	)	
Plaintiffs,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
ROSS BEMIS and	)	AT LAW
FRED BEMIS,	)	
	)	
Defendants.	)	

WRIT OF POSSESSION AND FIERI FACIAS

STATE OF ALABAMA )  
 \*  
 BALDWIN COUNTY )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to deliver to J. D. Taylor and George Brown possession of the lands and tenements which the said J. D. Taylor and George Brown recovered of Ross Bemis and Fred Bemis by the Judgment of our court here for the county of Baldwin on the 7th day of July, 1950, viz:

Begin at the intersection of the North line of Section 36, Township 8 South, Range 3 East (if said section were a regular section) with the center of Canal Bayou, a tributary of Bon Secour River, and from said beginning point run West along the North line of Sections 36 and 35 in said Township and Range, 14 chains and 10 links, more or less, to a point on the North line of said Section 35, which is distant West 1.3 chains from the Northeast corner of said Section 35, which point is the Northeast corner of the William E. Kennedy Grant (Section 34, Township 3 South, Range 3 East) thence running South 25 degrees East along the Easterly line of the said William E. Kennedy Grant to the Northwest bank of Bon Secour River, thence Easterly and Northerly along the bank of said Bon Secour River to the center of the mouth of Canal Bayou, thence up the middle of the said Bayou to the place of beginning, in Baldwin County, Alabama. Said property being a part of the Nicholas Cook Grant (Section 38, Township 8 South, Range 3 East) being the same property conveyed by Thomas A. Yeend and wife to William A. Yeend by deed dated July 20, 1920, recorded in Deed Book 29 N. S. at pages 669-70 of the records in the office of the Judge of Probate, Baldwin County, Alabama and conveyed by William A. Yeend, unmarried, to Thomas A. Yeend by deed dated October 13, 1944, recorded in Deed Book 87 N. S. at page 195, and conveyed by William A. Yeend, unmarried, to Potter Yeend by deed dated March 23, 1948, recorded in Deed Book 138 N. S. at pages 418-19 of the said Probate Court Records.

You are further commanded of the goods and chattels, land and tenements of the said Ross Bemis and Fred Bemis you cause to be made the sum of \$16.90 , costs of suit, and make return of this

land and execution thereon according to law.

WITNESS my hand this 30<sup>th</sup> day of November, 1950.

Alice J. Wicks

Clerk of the Circuit Court of Baldwin  
County, Alabama.

Received in Sheriff's Office  
this 1 day of Dec, 1950  
TAYLOR WILKINS, Sheriff

1507  
WRIT OR POSSESSION AND FIERI  
FACIAS.

J. D. TAYLOR and GEORGE BROWN,  
Plaintiffs,  
VS.

ROSS BEMIS and FRED BEMIS,  
Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

Executed \_\_\_\_\_ 19 50  
by serving copy of within Summons and  
Complaint on

By \_\_\_\_\_ Deputy Sheriff

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

Executed Jan 12 - 1951  
By delivering possession  
of the within property  
to J. D. Taylor and  
George Brown  
No property was  
found to pay cost  
as named herein  
J. D. Wilkins  
Sheriff

J. D. TAYLOR and	)	
GEORGE BROWN,	)	
	)	
Plaintiffs,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
ROSS BEMIS and	)	AT LAW
FRED BEMIS,	)	
	)	
Defendants.	)	

# MOTION TO STRIKE

Now come the Plaintiffs by their attorney and move the Court to strike the motion filed by the Defendants on August 14, 1950 to set aside the judgment heretofore rendered in this cause and as grounds therefor set down and assign, separately and several-ly, the following:

1. The allegations of the said motion and each ground thereof are untrue, except the date on which the judgment was rendered.
2. Plaintiffs admit that the judgment in this cause was rendered on July 7, 1950, but deny each and all of the other allegations of the said motion and each ground thereof.
3. There was no oral agreement or agreements between the attorney for the Plaintiffs and the attorney for the Defendants, as set out in the said motion.
4. The said motion has been discontinued.
5. The said motion has been discontinued and this Court now has no authority to rule thereon, because the said motion was not filed within thirty days after the rendition of the judgment in this cause, which said judgment was rendered on July 7, 1950 and the said motion having been filed on August 14, 1950.
6. The said motion has been discontinued and this Court has no authority to rule thereon, because the said judgment in this cause was rendered July 7, 1950 and the said motion was filed on August 14, 1950, which was more than thirty days after the rendition of the said judgment.
7. This cause has been discontinued and this Court has no authority to rule on the said motion, because the said motion

was not filed in the manner and within the time prescribed by Title 13, Section 119 of the 1940 Code of Alabama.

8. The said motion is prolix.

WHEREFORE, Plaintiffs move the Court to strike the said motion. Plaintiffs further move the Court to grant unto them such other relief as they may be entitled to, the premises considered.

J. B. Blackburn  
Attorney for Plaintiffs.

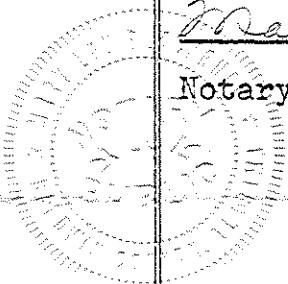
STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. BLACKBURN, who, after being by me first duly and legally sworn, deposes and says: That he has read over the foregoing motion; that he has personal knowledge of the facts stated therein and that the same are true.

J. B. Blackburn

Sworn to and subscribed before me  
on this the 4<sup>th</sup> day of October,  
1950.

Mary Lou Blackburn  
Notary Public, Baldwin County, Alabama.





MOTION TO STRIKE

RECORDED

J. D. TAYLOR and GEORGE BROWN,  
Plaintiffs,  
VS.

ROSS BEMIS and FRED BEMIS,  
Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

10-4-50: Filed.

Walter J. MacLennan, Jr.

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA

STATE OF ALABAMA, )  
BALDWIN COUNTY. )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Ross Bemis and Fred Bemis to appear within thirty days from the service of this writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of J. D. Taylor and George Brown.

WITNESS my hand this 2nd day of June, 1950.

Reinhold  
Clerk of the Circuit Court.

The Defendants reside at  
Bon Secour, Alabama.

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COMPLAINT.

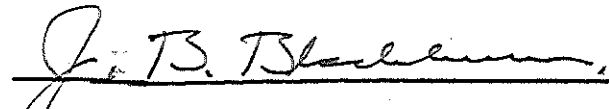
J. D. TAYLOR and GEORGE BROWN,	)	IN THE CIRCUIT COURT OF
Plaintiffs,	)	
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
ROSS BEMIS and FRED BEMIS,	)	AT LAW.
Defendants.	)	

The plaintiffs sue to recover possession of the following tract of land:

Begin at the intersection of the North line of Section 36, Township 8 South, Range 3 East (if said section were a regular section) with the center of Canal Bayou, a tributary of Bon Secour River, and from said beginning point run West along the North line of Sections 36 and 35 in said Township and Range, 14 chains and 10 links, more or less to a point on the North line of said Section 35, which is distant West 1.3 chains from the Northeast corner of said Section 35, which point is the Northeast corner of the William E. Kennedy Grant (Section 34, Township 8 South, Range 3 East) thence running South 25 degrees East along the Easterly line of the said William E. Kennedy Grant to the Northwest bank of Bon Secour River, thence Easterly and Northerly along the bank of said Bon Secour River to the center of the mouth of Canal Bayou, thence up the

middle of the said Bayou to the place of beginning, in Baldwin County, Alabama. Said property being a part of the Nicholas Cook Grant (Section 38, Township 8 South, Range 3 East) being the same property conveyed by Thomas A. Yeend and wife, to William A. Yeend by deed dated July 20, 1920, recorded in Deed Book 29 N.S. at pages 669-70, of the records in the office of the Judge of Probate, Baldwin County, Alabama, and conveyed by William A. Yeend, unmarried, to Thomas A. Yeend by deed dated October 13, 1944, recorded in Deed Book 87 N. S. at page 195, and conveyed by William A. Yeend, unmarried, to Potter Yeend by deed dated March 23, 1948, recorded in Deed Book 138 N.S. at pages 418-19, of the said Probate Court Records,

of which they were in possession and upon which, pending such possession and before the commencement of this suit, the Defendants entered and unlawfully withhold together with Five Hundred Dollars (\$500.00) for the detention thereof.

  
\_\_\_\_\_  
Attorney for Plaintiffs.

Executed this  
6 day June 1950  
By signing copy on  
Ross Bemis,  
Fred Bemis.

Sheriff  
Taylor Weikins  
By  
Edleigh Steadham

BILL OF COMPLAINT.  
**RECORDED**  
J. D. TAYLOR and GEORGE BROWN,  
Plaintiffs,  
VS.  
ROSS BEMIS and FRED BEMIS,  
Defendants.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW.

**FILED**  
JUN 2 1950  
ALICE I. DUCK, Clerk

J. B. BLACKBURN  
ATTORNEY AT LAW  
BAY MINETTE, ALABAMA