

COMPLAINT AS LAST AMENDED

WALTER KLOPNER,

Plaintiff,

Vs.

MARIE ALFKENSE,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO.

1527

Comes now the Plaintiff in the above styled cause and avends his complaint to read as follows:

Count One

The plaintiff claims of the defendant the sum of Twenty-Five Thousand Dollars (\$25,000.00) as damages for this, that on, to-wit, the 1st day of May, 1940, the plaintiff leased from the defendant the following described property situate in Baldwin County, Alabama, to-wit:

That parcel and lot of real property west of Eastern Shore Boulevard and bounded on the north by the Louis D'Clive Subdivision, on the south by Aura Douglas and Joe Douglas property, on the east by the public highway and on the west by Mobile Bay,

A copy of this lease agreement is attached hereto and marked Exhibit "A".

That the defendant impliedly covenanted that she would not infringe on the plaintiff's right to use and occupy the said property. That the defendant, during the life of said lease, and while the plaintiff was occupying and using the leased property, wilfully and knowingly interfered with the plaintiff's use and occupancy of the leased premises in such a manner that, as a direct proximate consequence and result thereof, the plaintiff was deprived of its beneficial use, thereby being constructively evicted therefrom.

The plaintiff avers that he entered on the leased premises very soon after the date he leased it, constructed a large night club at a great cost to him and began operating the same. That he continued to operate the said night club until the date of his constructive eviction. The plaintiff avers that he has complied with the terms of the lease, that the lease was in full force and effect at the time of his constructive eviction.

The acts done by the defendant causing the plaintiff's constructive eviction are hereinafter enumerated:

1. The defendant prevented the plaintiff from subleasing the said property by intimidating and scaring off his prospective tenants.
2. The defendant caused the false arrest of plaintiff and his wife.
3. The defendant sold illegal intoxicating liquors on the leased property, thereby causing the plaintiff's place of business to get a bad name, thus

causing the plaintiff to lose actual and prospective customers.

4. At various times during the year 1947 the defendant sold hunting licenses to various people giving them permission to hunt on the leased lands. This was a violation of the terms of the lease agreement.

The above enumerated acts of the defendant so interfered with the plaintiff's business that he could not continue to economically operate the same. The cumulative effect of the alleged acts was such that the plaintiff was forced to close his business on, to-wit, July 15, 1949, and was thereby constructively evicted.

Count Two

Plaintiff claims of defendant the sum of Five Hundred Dollars (\$500.00) for this, that on, to-wit; that during the life of said lease agreement, attached hereto and marked Exhibit "A", that on, to-wit, January 1, 1949, the defendant rented a part of the land that she had leased to the plaintiff by said lease agreement to another person. Therefore, plaintiff claims he was damaged in the amount of Five Hundred Dollars (\$500.00).

Count Three

Plaintiff claims of defendant the sum of One Thousand Dollars (\$1,000.00) for this, that on, to-wit, July 15, 1949, the defendant trespassed on the lands leased to the plaintiff and cut timber therefrom. This lessened the attractiveness of the plaintiff's place of business and caused him a loss in volume of trade.

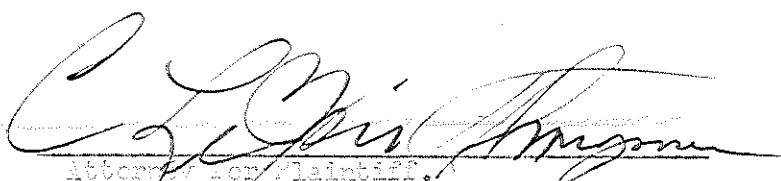
Count Four

Plaintiff claims of defendant the sum of Five Thousand Dollars (\$5,000.00) for this, that on, to-wit, July, 1949, the defendant by her agents, servants or employees trespassed on the plaintiff's leased premises and wilfully blocked bridges leading to his buildings and otherwise blocked the roads leading into the plaintiff's place of business, thereby barring customers from plaintiff's place of business, and caused the plaintiff to lose many of his customers, wherefore, plaintiff claims Five Thousand Dollars (\$5,000.00) damages.

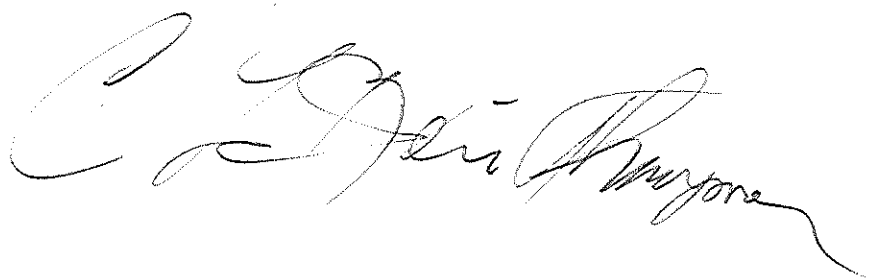
Count Five

Plaintiff claims of defendant the sum of Six Thousand Dollars (\$6,000.00) for this, that in consequence of the trespasses on the part of the defendant, her agents, servants or employees, the plaintiff herein was forced to dispose of the buildings erected by him on the property at a loss of Five Thousand Dollars (\$5,000.00); and as a consequence of the said defendant's actions,

the plaintiff herein, who had improved said property with a bridge costing in excess of Five Hundred Dollars (\$500.00), and a jetty to the beach, costing in excess of Five Hundred Dollars (\$500.00), was forced to abandon same, all to the loss of said plaintiff.


Attorney for Plaintiff.

I certify that I have this day, September 15, 1953, served a copy of this complaint as last amended on the attorney for the defendant, by leaving same in his office.



WALTER KLOPFER,
Plaintiff,

vs.

MARIE ALFICHSE,
Defendant.

COMPLAINT AS LAST AMENDED

PLAINTIFF'S EXHIBIT "A"

STATE OF ALABAMA

COUNTY OF BALDWIN

This lease, made this the 1st day of May, 1940, between Marie Alphonse, party of the first part, hereinafter called Lessor, and Walter Klopner, Party of the Second Part, hereinafter called Lessee, WITNESSETH:

That the Lessor does hereby lease and rent unto the Lessee the following premises in the County of Baldwin, State of Alabama, to-wit:

That parcel and lot of real property west of Eastern Shore boulevard and bounded on the north by the Louis D'Olive Subdivision, on the South by Aura Douglas and Joe Douglas property, on the east by the public highway and on the west by Mobile Bay,

for occupation by the Lessee for park, amusement and other commercial purposes, for and during the term of ten (10) years from date, that is, from the first day of May, 1940 to the 1st day of May, 1950.

The Lessee agrees to pay the Lessor the sum of Fifteen Hundred (\$1500.00) Dollars rental for said property, same to be paid in annual installments of One Hundred and Fifty (\$150.00) Dollars each on the 1st day of March of each year hereafter, during the life of said lease, payment of the first two years' rent being hereby acknowledged.

And the Lessee also agrees to pay all advance in taxes accruing on said property by reason of any improvements which he may put thereon.

It is further agreed that the Lessor shall have the right to renew or extend said lease for a period of five years after the expiration of the said ten years, the rental during such renewal or extension of this lease not to exceed Two Hundred Twenty-five (\$225.00) Dollars per year, said renewal or extension to be given provided the said Lessee has complied with all the terms of this lease.

It is further provided and agreed that in the event that the said Lessee shall have complied fully with all of the conditions of this lease and does not care to renew or extend same for the additional period of five years, for which he is herein given an option, he shall have the right to remove any and all improvements which he may have placed upon said premises during the said ten-year period, and which may be upon the premises at the end of the said ten-year period, and if this lease be renewed for an additional

five year period as above provided, the lessee shall have the same right to remove the improvements placed upon these premises.

Should the Lessee fail to pay rent as same falls due, as aforesaid, or violate any of the conditions of this lease, or should the Lessee be adjudged a bankrupt or should a Receiver be appointed, or should execution or other process be levied upon the interest of the Lessee in this lease or the property of the Lessee upon the leased premises, the Lessor shall have the right, at Lessor's option, to re-enter said premises and annul this lease, and such re-entry shall not bar the recovery of rent or damages for breach of covenant, nor shall the receipt of rent after conditions broken be deemed a waiver of forfeiture.

In the event of the employment of an attorney for the collection of any amount due hereunder or on account of bankruptcy proceedings by or against said Lessee, the Lessee agrees to pay and shall be taxed with a reasonable attorney's fee, which shall be a part of the debt evidenced and secured by this lease.

It is further agreed that should the Lessee make default in the payment of any annual installment of rent and such default shall continue for a period of thirty (30) days, or should he breach any other term or condition of this lease, and same remains uncorrected for a period of thirty (30) days, then he shall have therefrom, upon the written notice of Lessor terminating his possessory interest in and to said premises, thirty (30) days within which to remove any and all property belonging to him on said premises, including such buildings as he shall have erected thereon.

It is further understood and agreed that no part of said premises shall be used for the illegal sale, manufacture or storage of any prohibited liquors or for any illegitimate purpose, it being understood that should Lessee keep for sale, manufacture or storage any intoxicating liquors, he must have a license to fully cover such right.

IN TESTIMONY WHEREOF, we have hereunto set our hands, in duplicate, on this the day and year first above written.

(Signed) Marie Alphonse
Lessor

(Signed) Walter Klonner
Lessee

As part and parcel hereof, it is agreed that during the term of this lease, that the breach or expiration thereof, the Lessee shall desire to sell or shall offer to sell the improvements erected by him thereon, then in such event lessee shall fix the sale price thereof whether then on the leased property or removed therefrom, and the lessor herein shall

have the first opportunity and preference to buy the same at the price so fixed (the option to expire in three days), and no sale thereof shall be made by lessee of such property at a smaller price without giving her the same opportunity as above provided.

Executed and delivered at the same date and time as above.

(Signed) Marie Alphonse

Lessor

(Signed) Walter Klopner.

Lessee.

WALTER FLORES,
Plaintiff,
vs.
MARIE ALLISON,
Defendant.

RECORDED

COMPLAINT ASBEST ASSESSED

FILED
SEP 15 1953
ALICE J. DUCK, Clerk

From the law Office of
G. Leclair Thompson
Attorney at Law.

WALTER KLOPNER,)	
)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
)	
VS.	)	BALDWIN COUNTY, ALABAMA
)	
MARIE ALPHONSE,	)	AT LAW
	)	NO. 1527
Defendant.)	

DEMURRERS

Comes the defendant in the above styled cause and demurs to the complaint as last amended, separately and severally, and for grounds of demurrer assigns, separately and severally, the following:

1. It does not state a cause of action.
2. It does not state how defendant violated the alleged lease agreement.
3. It does not allege how the plaintiff was damaged.
4. It does not state the time when the alleged breach occurred.
5. It does not allege that the defendant interfered with the plaintiff's use and occupancy of said property during the term of the said lease.
6. It does not allege that the plaintiff used and occupied the said property under the said lease.
7. It does not show that the defendant breached her duty alleged to have arisen from the said lease.
8. It is so vague, uncertain and indefinite as to not properly inform the defendant as to what she is called upon to defend against.
9. The allegations of the complaint as last amended are mere conclusions.
10. No facts are alleged to show when the plaintiff was constructively evicted from the property described in the lease referred to in the complaint as last amended.
11. No facts are alleged to show that the lease referred to in the complaint as last amended was in force and effect at the time of the alleged breach.

12. For aught that appears in the complaint as last amended, the lease referred to therein had lapsed because of plaintiff's failure to pay the rent due thereunder before the time of the alleged breach by the defendant.

13. There is a misjoinder of causes of action.

14. The allegations of the complaint as last amended, even if true, do not state that the defendant violated the lease agreement.

15. It does not allege that the property leased was in Baldwin County, Alabama.

16. It affirmatively appears from the complaint as last amended that the alleged breach of the lease agreement occurred after the plaintiff had vacated the premises.

17. For that the plaintiff alleges in his amended complaint that a copy of a lease agreement is attached thereto and marked "Exhibit A", whereas in fact, there is no "Exhibit A" attached thereto.

J. B. Blackburn
Attorney for Defendant.

DEMURRER TO AMENDED COMPLAINT
RECORDED

WALTER KLOPNER,

Plaintiff,

VS.

MARIE ALPHONSE,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 1527

FILED

SEP 14 1953

ALICE J. DUCK, Clerk

AMENDED COMPLAINT

WALTER KLOPFER, Plaintiff, vs. MARIE ALPHONSE, Defendant.))))))	IN THE CIRCUIT COURT OF DADE COUNTY, ALABAMA AT LAW CASE NO. _____
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Comes now the plaintiff in the above styled cause and avends his complaint to read as follows:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred (\$2500.00) Dollars as damages for this, that on, to-wit, the first day of May, 1940, the Plaintiff leased from the Defendant the following described property:

That parcel and lot of real property west of Eastern Shore Boulevard and bounded on the north by the Louis D'Clive Subdivision, on the south by Aura Douglas and Joe Douglas property, on the east by the public highway and on the west by Mobile Bay.

A copy of this lease agreement is attached hereto and marked Exhibit "A".

That the Defendant impliedly covenanted that she would not infringe on the Plaintiff's right to use and occupy the said property. That the Defendant wilfully and knowingly interfered with the Plaintiff's use and occupancy of the leased premises in such a manner that, as a direct, proximate consequence and result thereof, the Plaintiff was deprived of its beneficial use, thereby being constructively evicted therefrom.

The acts done by the Defendant causing the Plaintiff's constructive eviction are hereinafter enumerated:

- (1) The Defendant prevented the Plaintiff from subleasing the said property by intimidating and scaring off his prospective tenants.
- (2) The Defendant caused the false arrest of Plaintiff and his wife.
- (3) The Defendant sold illegal intoxicating liquors on the leased property, thereby causing the Plaintiff's place of business to get a bad name, thus causing the Plaintiff to lose actual and prospective customers.
- (4) The Defendant sold hunting licenses to various people, giving them permission to hunt on the leased lands. This was a violation of the terms of the lease agreement.

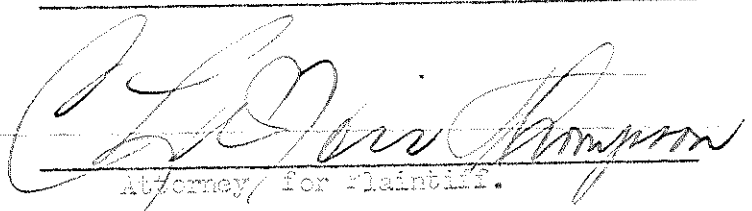
(5) The Defendant rented a part of the land that she had leased to the Plaintiff to another person. This was also a violation of the lease agreement.

(6) The Defendant trespassed on the lands leased to the Plaintiff and cut timber therefrom. This lessened the attractiveness of the Plaintiff's place of business and caused him a loss in volume of trade.

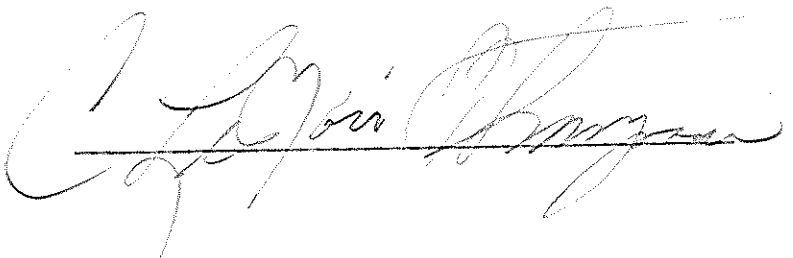
(7) The Defendant trespassed on the Plaintiff's premises and wilfully blocked bridges leading to his buildings and otherwise blocked the roads leading into the Plaintiff's place of business. This was annoying and inconvenient for both the Plaintiff and his customers, and caused the Plaintiff to lose many of his customers.

(8) That in consequence of the several acts on the part of the Defendant, the Plaintiff herein was forced to dispose of the buildings erected by him on the property at a loss; and as a consequence of the said Defendant's actions, the plaintiff herein, who had improved said property with a bridge costing in excess of Five Hundred (\$500.00) Dollars, and a jetty to the beach, costing in excess of Three Hundred (\$300.00) Dollars, was forced to abandon same, all to the loss of said Plaintiff.

The above enumerated acts of the Defendant so interfered with the Plaintiff's business that he could not continue to economically operate the same. The cumulative effect of the alleged acts was such that the Plaintiff was forced to close his business on, to-wit, the latter part of July, 1949, and was thereby constructively evicted.


Attorney for Plaintiff.

I hereby certify that I have this day, September 12, 1953,
served a copy of this amended complaint on counsel for the Defendant
by leaving said copy at his office.



WALTER KLOPPER,
Plaintiff,

vs.

EARLE ALPHONSE,
Defendant.

RECORDED

AMENDED COMPLAINT

FILED

SEP 12 1953

ALICE J. DUCK, Clerk

From the Law Office of
C. LENOIR THOMPSON
Attorney at Law.

WALTER KLOPNER,
Plaintiff,
VS.
MARIE ALPHONSE,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 1527

DEMURRERS

Comes the defendant in the above styled cause and demurs to the complaint as last amended, separately and severally, and for grounds of demurrer assigns, separately and severally, the following:

1. It does not state a cause of action.
2. It does not state how defendant violated the alleged lease agreement.
3. It does not allege how the plaintiff was damaged.
4. It does not state the time when the alleged breach occurred.
5. It does not allege that the defendant interfered with the plaintiff's use and occupancy of said property during the term of the said lease.
6. It does not allege that the plaintiff used and occupied the said property under the said lease.
7. It does not show that the defendant breached her duty alleged to have arisen from the said lease.
8. It is so vague, uncertain and indefinite as to not properly inform the defendant as to what she is called upon to defend against.
9. The allegations of the complaint as last amended are mere conclusions.
10. No facts are alleged to show when the plaintiff was constructively evicted from the property described in the lease referred to in the complaint as last amended.
11. No facts are alleged to show that the lease referred to in the complaint as last amended was in force and effect at the time of the alleged breach.

12. For aught that appears in the complaint as last amended, the lease referred to therein had lapsed because of plaintiff's failure to pay the rent due thereunder before the time of the alleged breach by the defendant.

13. There is a misjoinder of causes of action.

14. The allegations of the complaint as last amended, even if true, do not state that the defendant violated the lease agreement.

15. It does not allege that the property leased was in Baldwin County, Alabama.

16. It affirmatively appears from the complaint as last amended that the alleged breach of the lease agreement occurred after the plaintiff had vacated the premises.

J. B. Blaschke
Attorney for Defendant

DEMURRERS TO COMPLAINT

RECORDED
AS LAST AMENDED

WALTER KLOPNER,

Plaintiff

VS.

MARIE ALPHONSE,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1527

FILED

DEC 24 1952

ALICE J. DUCK, Clerk

J. B. BLACKBURN

ATTORNEY AT LAW

BAY MINETTE, ALABAMA

AMENDED COMPLAINT

WALTER KLOPNER

Plaintiff

vs

MARIE ALPHONSE

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. _____

Comes now the Plaintiff in the above styled cause and amends his complaint to read as follows:

The Plaintiff claims of the Defendant the sum of Twenty-five Thousand (\$25,000.00) Dollars as damages for this, that on to-wit the first day of May, 1940 the Plaintiff leased from the Defendant the following described property:

That parcel and lot of real property west of Eastern Shore Boulevard and bounded on the north by the Louis D'Olive Subdivision, on the south by Aura Douglas and Joe Douglas property, on the east by the public highway and on the west by Mobile Bay.

a copy of this lease agreement is attached hereto and marked exhibit "A".

That the Defendant impliedly covenanted that she would not infringe on the Plaintiff's right to use and occupy the said property. That the Defendant wilfully and knowingly interfered with the Plaintiff's use and occupancy of the leased premises in such a manner that, as a direct, proximate consequence and result thereof, the Plaintiff was deprived of it's beneficial use, thereby being constructively evicted therefrom.

The acts done by the Defendant causing the Plaintiff's constructive eviction are herein after enumerated:

(1) The Defendant prevented the Plaintiff from sub-leasing the said property by intimidating and scaring-off his prospective tenants.

(2) The Defendant caused the false arrest of Plaintiff and his wife.

(3) The Defendant sold illegal intoxicating liquors on the leased property, thereby causing the Plaintiff's place of business to get a bad name, thus causing the Plaintiff to lose actual and prospective customers.

(4) The Defendant sold hunting license to various people giving them permission to hunt on the leased lands. This was a violation of the terms of the lease agreement.

(5) The Defendant rented, a part of the land that he had leased to the Plaintiff, to another person. This was also a violation of the

lease agreement.

(6) The Defendant trespassed on the lands leased to the Plaintiff and cut timber therefrom. This lessened the attractiveness of the Plaintiff's place of business and caused him a loss in volume of trade.

(7) The Defendant trespassed on the Plaintiff's premises and wilfully blocked bridges leading to his buildings and otherwise blocked the roads leading into the Plaintiff's place of business. This was annoying and inconvenient for both the Plaintiff and his customers and caused the Plaintiff to lose many of his customers.

The above enumerated acts of the Defendant so interfered with the Plaintiff's business that he could not continue to economically operate the same. The cumulative effect of the alleged acts was such that the Plaintiff was forced to close his business on to-wit 5th day of July 1948, and was thereby constructively evicted.

Robert M Brandy

C. B. Thompson
Attorneys for Plaintiff

#1521

RECORDED

WALTER KLOPNER

Plaintiff

VS

MARIE ALPHONSE

Defendant

ATTENDED COMPLAINT

FILED

NOV 28 1951

ALICE J. DUCK, Clerk.

From the law offices of
C. LeNoir Thompson
Bay Minette, Alabama

WALTER KLOPNER,)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.)	
	)	AT LAW NO. 1527
MARIE ALPHONSE,)	
Defendant.)	

DEMURRERS

Comes the defendant in the above styled cause and demurs to the amended complaint, seperately and severally, and for grounds of demurrer assigns, separately and severally, the following:

1. It does not state a cause of action.
2. It does not state how defendant violated the alleged lease agreement.
3. It does not allege how the plaintiff was damaged.
4. It does not state the time when the alleged breach occurred.
5. It does not allege that the defendant interfered with the plaintiff's use and occupancy of said property during the term of the said lease.
6. It does not allege that the plaintiff used and occupied the said property under the said lease.
7. It does not show that the defendant breached her duty alleged to have arisen from the said lease.
8. It is so vague, uncertain and indefinite as to not properly inform the defendant as to what she is called upon to defend against.
9. The allegations of the amended complaint are mere conclusions.
10. No facts are alleged to show when the plaintiff was constructively evicted from the property described in the lease referred to in the amended complaint.
11. No facts are alleged to show that the lease referred to in the amended complaint was in force and effect at the time of the alleged breach.
12. For aught that appears in the amended complaint, the lease referred to therein had lapsed because of plaintiff's

failure to pay the rent due thereunder before the time of the alleged breach by the defendant.

13. There is a misjoinder of causes of action.

14. The allegations of the amended complaint, even if true, do not state that the defendant violated the lease agreement.

J. B. Blackburn,

Attorney for Defendant.

DEMURRERS

RECORDED
WALTER KLOPFER,

Plaintiff,

VS.

MARIE ALPHONSE,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 1527

*Filed: 27 October 1952.
J. B. Blackburn
Judge.*

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

WALTER KLOPNER,)	
	)	IN THE CIRCUIT COURT OF
Plaintiff,	)	BALDWIN COUNTY, ALABAMA
VS.)	
	)	AT LAW
MARIE ALPHONSE,	)	NO. 1527
)	
Defendant.)	

DEMURRER

Now comes the defendant in the above styled case and demurs to the complaint as last amended (the amendment filed September 15, 1953), and to each and every count thereof, separately and severally, and as grounds of such demurrer assigns, separately and severally, the following:

1. It does not state how the defendant violated the alleged lease agreement.
2. It does not allege how the plaintiff was damaged.
3. It does not state the time when the alleged breach occurred.
4. It does not allege that the defendant interfered with the use and occupancy of the said property during the term of the said lease.
5. The allegations of the complaint, as last amended, are conclusions of the pleader.
6. There is a misjoinder of causes of action.
7. It does not allege that the property leased is situated in Baldwin County, Alabama.
8. No facts are alleged to show any breach of duty by the defendant.
9. No facts are alleged to show any duty owing by the defendant to the plaintiff, or where the defendant breached such duty.
10. No facts are alleged to show when the actions, which are alleged to have been committed by the defendant, were done.
11. The allegations of the amended complaint are conclusions of the pleader and no facts are alleged to show that the plaintiff was constructively evicted from the said leased premises.

12. No facts are alleged to show any intentional injurious interference by the defendant (landlord) which deprived the plaintiff (tenant) of the beneficial enjoyment of the said leased premises.

13. The property which the defendant is alleged to have rented is not described.

14. The property on which the defendant is alleged to have trespassed is not described.

15. The property on which the defendant's agents, servants or employees are alleged to have trespassed is not described.


16. It does not allege that the defendant's said agents, servants or employees were acting within the line and scope of their employment at the time of the alleged trespass.

17. No facts are alleged to show that the defendant rented the said leased property for any part of the time which was covered by the Plaintiff's lease.

18. No facts are alleged to show the term for which the defendant rented the said leased premises.

19. No facts are alleged to show that the defendant rented the said leased premises for any part of the time that the said property was leased to the Plaintiff or that the party to whom the property was rented disturbed the Plaintiff's possession of the said property.

20. No facts are alleged to show the terms and provisions of the lease under which the Plaintiff is alleged to claim.



Attorney for Defendant.

RECORDED
DEMURRER
WALTER KLOPNER,

VS. Plaintiff,

MARIE ALPHONSE,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 1527

Filed 9-16-53
W. B. Blackburn
per

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

COMPLAINT AS LAST AMENDED

WALTER KLOPNER,

Plaintiff,

VS.

MARIE ALPHONSE,

Defendant.

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW

CASE NO. _____.

Comes now the Plaintiff in the above styled cause and amends his complaint to read as follows:

The Plaintiff claims of the Defendant the sum of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS as damages for this, that on, to-wit the 1st day of May, 1940, the plaintiff leased from the Defendant the following described property:

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a copy of this lease agreement is attached hereto and marked exhibit "A".

That the Defendant impliedly covenanted that she would not infringe on the Plaintiff's right to use and occupy the said property. That the Defendant, during the life of said lease, and while the Plaintiff was occupying and using the leased property, willfully and knowingly interfered with the Plaintiff's use and occupancy of the leased premises in such a manner that, as a direct proximate consequence result thereof, the Plaintiff was deprived of its beneficial use, thereby being constructively evicted therefrom.

The Plaintiff avers that he entered on the leased premises very soon after the date he leased it, constructed a large night club at a great cost to him and began operating the same. That he continued to operate the said night club until the date of his constructive eviction. The Plaintiff avers that he has complied with the terms of the lease, that the lease was in full force and effect at the time of his constructive eviction.

The acts done by the Defendant causing the Plaintiff's constructive eviction are hereinafter enumerated:

1. The Defendant prevented the Plaintiff from subleasing the said property by intimidating and scaring off his prospective tenants.
2. The Defendant caused the false arrest of Plaintiff and his wife.
3. The Defendant sold illegal intoxicating liquors on the leased property, thereby causing the Plaintiff's place of business to get a bad name, thus causing the Plaintiff to lose actual and prospective customers.

4. At various times during the year 1947 the Defendant sold hunting license to various people giving them permission to hunt on the leased lands. This was a violation of the terms of the lease agreement.

5. On, to-wit, January 1, 1949, the Defendant rented, a part of the land that he had leased to the Plaintiff, to another person. This was also a violation of the lease agreement.

June and July 1949
6. On, to-wit, May 1, 1949, the Defendant trespassed on the lands leased to the Plaintiff and cut timber therefrom. This lessened the attractiveness of the Plaintiff's place of business and caused him a loss in volume of trade.

7. The Defendant trespassed on the Plaintiff's premises and willfully blocked bridges leading to his buildings and otherwise blocked the roads leading into the Plaintiff's place of business. This was annoying and inconvenient for both the Plaintiff and his customers and caused the Plaintiff to lose many of his customers.

The above enumerated acts of the Defendant so interfered with the Plaintiff's business that he could not continue to economically operate the same. The cumulative effect of the alleged acts was such that the Plaintiff was forced to close his business on, to-wit, July 1948, and was thereby constructively evicted.

C. LeNoir Thompson
C. LeNoir Thompson

Tolbert M. Brantley
Tolbert M. Brantley, Attorneys for Plaintiff.

STATE OF ALABAMA

COUNTY OF BALDWIN

This lease, made this the 1st day of May, 1940, between Marie Alphonse, party of the first part, hereinafter called Lessor, and Walter Klopner, Party of the Second Part, hereinafter called Lessee, WITNESSETH:

That the Lessor does hereby lease and rent unto the Lessee the following premises in the County of Baldwin, State of Alabama, to-wit:

That parcel and lot of real property west of Eastern Shore Boulevard and bounded on the north by the Louis D'Olive Subdivision, on the South by Aura Douglas and Joe Douglas property, on the east by the public highway and on the west by Mobile Bay,

for occupation by the Lessee for park, amusement and other commercial purposes, for and during the term of ten (10) years from date, that is, from the first day of May, 1940 to the 1st day of May, 1950.

The Lessee agrees to pay the Lessor the sum of Fifteen Hundred (\$1500.00) Dollars rental for said property, same to be paid in annual installments of One Hundred and Fifty (\$150.00) Dollars each on the 1st day of March of each year hereafter, during the life of said lease, payment of the first two years' rent being hereby acknowledged.

And the Lessee also agrees to pay all advance in taxes accruing on said property by reason of any improvements which he may put thereon.

It is further agreed that the Lessor shall have the right to renew or extend said lease for a period of five years after the expiration of the said ten years, the rental during such renewal or extension of this lease not to exceed Two Hundred Twenty-Five (\$225.00) Dollars per year, said renewal or extension to be given provided the said Lessee has complied with all the terms of this lease.

It is further provided and agreed that in the event that the said Lessee shall have complied fully with all of the conditions of this lease and does not care to renew or extend same for the additional period of five years, for which he is herein given an option, he shall have the right to remove any and all improvements which he may have placed upon said premises during the said ten-year period, and which may be upon the premises at the end of the said ten-year period, and if this lease be renewed for an additional

five year period as above provided, the lessee shall have the same right to remove the improvements placed upon these premises.

Should the Lessee fail to pay rent as same falls due, as aforesaid, or violate any of the conditions of this lease, or should the Lessee be adjudged a bankrupt or should a Receiver be appointed, or should execution or other process be levied upon the interest of the Lessee in this lease or the property of the Lessee upon the leased premises, the Lessor shall have the right, at Lessor's option, to re-enter said premises and annul this lease, and such re-entry shall not bar the recovery of rent or damages for breach of covenant, nor shall the receipt of rent after conditions broken be deemed a waiver of forfeiture.

In the event of the employment of an attorney for the collection of any amount due hereunder or on account of bankruptcy proceedings by or against said Lessee, the Lessee agrees to pay and shall be taxed with a reasonable attorney's fee, which shall be a part of the debt evidenced and secured by this lease.

It is further agreed that should the Lessee make default in the payment of any annual installment of rent and such default shall continue for a period of thirty (30) days, or should he breach any other term or condition of this lease, and same remains uncorrected for a period of thirty (30) days, then he shall have therefrom, upon the written notice of Lessor terminating his possessory interest in and to said premises, thirty (30) days within which to remove any and all property belonging to him on said premises, including such buildings as he shall have erected thereon.

It is further understood and agreed that no part of said premises shall be used for the illegal sale, manufacture or storage of any prohibited liquors or for any illegitimate purpose, it being understood that should Lessee keep for sale, manufacture or storage any intoxicating liquors, he must have a license to fully cover such right.

IN TESTIMONY WHEREOF, we have hereunto set our hands, in duplicate, on this the day and year first above written.

(SIGNED) Marie Alphonse
Lessor

(SIGNED) Walter Klopner
Lessee

As part and parcel hereof, it is agreed that during the term of this lease, that the breach of expiration thereof, the Lessee shall desire to sell or shall offer to sell the improvements erected by him thereon, then in such event lessee shall fix the sale price thereof whether then on the leased property or removed therefrom, and the lessor herein shall

have the first opportunity and preference to buy the same at the price so fixed (the option to expire in three days), and no sale thereof shall be made by lessee of such property at a smaller price without giving her the same opportunity as above provided.

Executed and delivered at the same date and time as above.

(SIGNED) Marie Alphonse
Lessor

(SIGNED) Walter Klopner.
Lessee.

Same as previous complaint

COMPLAINT AS LAST AMENDED

WALTER KLOPNER,

Complainant,

VS.

MARIE ALPHONSE,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

AT LAW

CASE NO. 1527.

FILED 11-25-52

Archie J. Henrich
CLERK

STATE OF ALABAMA
BALDWIN COUNTY

You are hereby commanded to summon MARIE ALPHONSE, to appear and plead, answer or demur, within thirty days from the service hereof to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in equity, by WALTER KLOPNER, as Plaintiff, and against MARIE ALPHONSE, as Defendant.

WITNESS my hand this 8th day of July, 1950.

Reice J. Wierck
Register

WALTER KLOPNER

Plaintiff

Vs

MARIE ALPHONSE

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

1.

Plaintiff claims of the Defendant the sum of Twenty-five Thousand (\$25,000.00) Dollars for this that on, to-wit, the first day of May, 1940

Plaintiff leased of the Defendant the following described property:

That parcel and lot of real property West of Eastern Shore Boulevard and bounded on the North by the Louis D'Olive Subdivision, on the South by Aura Douglas and Joe Douglas property, on the East by the public highway and on the West by Mobile Bay,

as evidenced by a written leased contract in which it was and is provided lessee agreed that the Plaintiff was to occupy said property hereinafter described as a park for amusement and other commercial purposes and that the said Defendant so violated the agreement herein stated, interfering with Plaintiff's possession, use and occupancy of said property that the Plaintiff was greatly damaged. Wherefore Plaintiff claims that his livelihood was interfered with and was so damaged that he is entitled to the sum of to-wit, Twenty-five Thousand (\$25,000.00) Dollars.

Walter Klopner
Attorney for Plaintiff

Plaintiff demands a trial by jury.

Walter Klopner
Attorney for Plaintiff

Received in Sheriff's Office
this 9 day of July, 1950
TAYLOR WILKINS, Sheriff

Executed July 18 1950
by serving copy of within Summons and
Complaint on

Marie Alphonse

WALTER KLOPNER

Plaintiff

Vs

MARIE ALPHONSE

Defendant

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

FILED

JUL 8 1950

ALICE J. DUCK, Clerk

From the law office of
C. LeNoir Thompson
Bay Minette, Alabama

Plaintiff,

VS.

Defendant.

BALDWIN COUNTY, ALABAMA

AT LAW.

1. It does not state a cause of action.
2. It does not state how Defendant violated the alleged lease agreement.
3. It does not allege how Defendant interfered with Plaintiff's possession.
4. It does not allege how Defendant interfered with Plaintiff's use of said property.
5. It does not allege how Defendant interfered with the Plaintiff's occupancy of said property.
6. It does not allege how the Plaintiff was damaged.
7. It does not allege the term of said lease.
8. It does not state the time when the alleged breach occurred.

J. B. Blackburn
Attorney for Defendant.

1527

DEMURRER

WALTER KLOPNER,

RECORDED

VS.

Plaintiff,

MARIE ALPHONSE,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

FILED

AUG 13 1950

ALICE J. DUCK, Clerk

MOTION TO STRIKE

WALTER KLOPNER

Plaintiff

vs

MARIE ALPHONSE

Defendant

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

Comes now the Defendant in the above styled case and moves to strike the amended Complaint filed by the Plaintiff and for grounds of such motion says:

1. The amended Complaint is prolix.
2. The case has been discontinued because the Defendant's demurrer was sustained to the Plaintiff's Complaint on March 27, 1951 and the Plaintiff's amended Complaint was not filed until November 28, 1951.

J. B. Blaschke
Attorney for Defendant.

1527

MOTION TO STRIKE AMENDED
~~BILL~~ OF COMPLAINT

RECORDED

WALTER KNOPNER
Plaintiff

Vs.
Marie Alphonse
Defendant

FILED

DEC 29 51

ALICE J. DUCK, Clerk

November 28, 1951.
1951 and the Plaintiff's amended complaint was not filed until
November was sustained to the Plaintiff's complaint on March
The case has been discontinued because
The amended complaint is proper.

Defendant

MARIE ALPHONSE

as

Plaintiff

WALTER KNOPNER

MOTION TO STRIKE

CASE NO. _____

BALDWIN COUNTY, ALABAMA

IN THE CIRCUIT COURT OF

Approved for Defendant.

1251