

WILSON-YEAGER, A CO-PARTNERSHIP  
COMPOSED OF WALTER M. WILSON AND  
DOROTHY YEAGER,

PLAINTIFFS,

VS

CHARLES A. SOUDERS, AND MARY F.  
SOUDERS, JOINTLY AND INDIVIDUALLY,

DEFENDANTS

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO: 8867

DEMURRER

COMES NOW THE DEFENDANTS, CHARLES A. SOUDERS AND MARY F. SOUDERS, JOINTLY AND INDIVIDUALLY, IN THE ABOVE STYLED CAUSE AND DEMURS TO THE PLAINTIFFS' COMPLAINT AND TO EACH COUNT THEREOF, SEPARATELY AND SEVERALLY, AND ASSIGNS THE FOLLOWING SEPARATE AND SEVERAL GROUNDS OF DEMURRER:

1. SAID COUNT IS VAGUE AND INDEFINITE.
2. SAID COUNT IS VAGUE AND INDEFINITE IN THAT IT IS NOT SHOWN THAT THE CONDITIONS AND TERMS OF THE CONTRACT HAVE BEEN COMPLIED WITH.
3. SAID COUNT FAILS TO ALLEGE THAT THE PLAINTIFFS HAD AN EXCLUSIVE RIGHT TO SELL THE PROPERTY HEREIN.
4. THAT ALL CONDITIONS AND TERMS OF THE CONTRACT ARE NOT ALLEGED TO HAVE BEEN FULFILLED BY THE PLAINTIFFS.
5. THE ALLEGATIONS ARE CONCLUSIONS OF THE PLAINTIFFS.
6. SAID COUNT DOES NOT ALLEGE OR SUFFICIENTLY SET FORTH ANY FACTS TENDING TO SHOW THAT THE CONDITIONS, TERMS AND STIPULATIONS SET OUT IN EXHIBIT "A" OF PLAINTIFFS' COMPLAINT HAVE BEEN COMPLIED WITH OR FULFILLED.
7. SAID COUNT AFFIRMATIVELY SHOWS THAT THE PLAINTIFFS HAVE NOT PRODUCED A BUYER READY, WILLING AND ABLE TO PURCHASE THE PROPERTY AT THE TERMS AND CONDITIONS STATED IN EXHIBIT "A" OF PLAINTIFFS' COMPLAINT.

8. SAID COUNT FAILS TO ALLEGE THAT THE PLAINTIFFS WERE AGENTS OR BROKERS.

9. FOR OUGHT THAT APPEARS, THE DEFENDANTS HAD REVOKED THE PLAINTIFFS RIGHT AND AUTHORITY TO SELL THE PROPERTY.

10. THE ALLEGATIONS OF SAID COUNT ARE VAGUE AND INDEFINITE IN THAT IT IS NOT SHOWN THAT THE DEFENDANTS WERE NOT ENTITLED TO SELL THE PROPERTY UNDER TERMS AND CONDITIONS OTHER THAN THOSE STATED IN THE CONTRACT.

11. THE ALLEGATIONS OF SAID COUNT ARE VAGUE AND INDEFINITE IN THAT IT IS NOW SHOWN THAT THE DEFENDANTS COULD NOT SELL THE PROPERTY WITHOUT THE KNOWLEDGE AND CONSENT OF THE PLAINTIFFS.

12. SAID COUNT DOES NOT ALLEGE THAT THERE IS A CONTRACTUAL RELATIONSHIP BETWEEN THE PARTIES AUTHORIZING THE PLAINTIFFS TO SELL THE PROPERTY.

13. SAID COUNT DOES NOT STATE A CAUSE OF ACTION.

14. IT AFFIRMATIVELY APPEARS FROM SAID COUNT THAT THERE WERE TWO CONTRACTS INVOLVED, ONE OF WHICH IS NOT ATTACHED, OR THE TERMS AND CONDITIONS SET FORTH IN SAID COUNT.

BAILEY & TAYLOR

BY:

*Lloyd E. Taylor*  
LLOYD E. TAYLOR,

ATTORNEYS FOR THE DEFENDANT

FOR TRIAL OF THIS CAUSE

DEFENDANTS RESPECTIVELY DEMAND A

TRIAL BY JURY.

*Lloyd E. Taylor*  
LLOYD E. TAYLOR,

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE ON THIS 5TH DAY OF SEPTEMBER, 1969, SERVED A COPY OF THE FOREGOING ON JOHN V. DUCK, ATTORNEY FOR THE PLAINTIFFS, BY MAILING THE SAME BY UNITED STATES MAIL, PROPERLY ADDRESSED, AND FIRST CLASS POSTAGE PREPAID.

SEP 6 1969

*Lloyd E. Taylor*  
LLOYD E. TAYLOR

ALICE J. DUCK

CLERK VOL REGISTER

65 PAGE 350 65 318

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

CASE NO: 8867

WILSON YEAGER, A Co-PARTNERSHIP,  
PLAINTIFFS

VS

CHARLES A. SOUDERS, & MARY F.  
SOUDERS JOINTLY AND INDIVIDUALLY,  
DEFENDANTS

MEMO-LETTER

JOHN V. DUCK  
Attorney at Law  
P. O. DRAWER Y - FAIRHOPE, ALABAMA

8867

MESSAGE

REPLY

TO Mrs. Alice J. Duck  
Bay Minette, Ala.

DATE

10, 682

DATE August 6, 1969

Re: Wilson & Yeager vs. Charles A. Souders

Dear Mrs. Duck:

Enclsod please find Bill of Complaint to  
be filed together with copy of same and  
Summons to be served.

Sincerely,

*John V. Duck*  
(2/1)

SIGNED

SIGNED

BAILEY & TAYLOR  
ATTORNEYS AT LAW  
61 NORTH SECTION STREET  
P. O. BOX 361  
FAIRHOPE, ALABAMA 36532

DEPTMBER 5, 1969

MRS. ALICE J. DUCK  
CLERK OF COURT  
BAY MINETTE, ALABAMA

RE: WILSON-YEAGER VS SOUDERS

DEAR MRS. DUCK:

I WILL APPRECIATE YOU FILING THE ENCLOSED  
DEMURRER IN THE ABOVE MATTER.

I HAVE THIS DAY MAILED JOHN V. DUCK,  
ATTORNEY FOR THE PLAINTIFFS, A COPY OF  
SAME.

VERY TRULY YOURS,

  
HOYD T. TAYLOR  
LET/W

INCL: AS NOTED

WILSON & YEAGER, a Co-Partnership, ) IN THE CIRCUIT COURT OF  
 composed of WALTER M. WILSON and ) BALDWIN COUNTY, ALABAMA  
 DOROTHY YEAGER, )  
 Plaintiffs, ) IN EQUITY  
 vs. ) ~~10,682~~  
 CHARLES A. SOUDERS and MARY F. ) 886?  
 SOUDERS, jointly and individually, )  
 Defendants. )

COUNT ONE

Plaintiff claims of the Defendants the sum of EIGHT HUNDRED SIXTY-SEVEN (\$867.00) DOLLARS as damages for breach of an agreement entered into by the Defendants with the Plaintiffs on, to-wit: the 8th day of April, 1969, a copy of which agreement is hereto attached and made a part hereof and marked "Exhibit A".

And the Plaintiffs says that although they have complied with all of the provisions on their part, namely that they listed the said property described in said agreement and found a buyer ready, willing and able, that the Defendants herein negotiated the sale of the said property with the purchasers without the knowledge or consent of the Plaintiffs and that a sale was consummated, but on different terms and conditions other than authorized in the agreement without the knowledge or consent on the part of the Plaintiffs, and that the Plaintiffs further aver that the Defendants have refused to pay the real estate commission mentioned in the said agreement in accordance with its terms thereof.

COUNT TWO

Plaintiffs claim of the Defendants the sum of EIGHT HUNDRED SIXTY-SEVEN (\$867.00) DOLLARS as damages for the breach of a written agreement entered into by the Plaintiffs and the Defendants on, to-wit: the 8th day of April, 1969, wherein the Defendants were to sell the premises owned by them to one JAMES R. ANDERSON, and that subsequent to the entering into of the said agreement, the Defendants negotiated with the purchaser and did sell the premises therein described on, to-wit: the 21st day of May, 1969 to the

purchaser on terms and conditions not in accordance with the offer to purchase and agreement entered into by the parties herein, but without knowledge and consent on the part of the Plaintiffs, and that the Defendants have refused to pay the said real estate commission thereon after due notice to the Defendants, hence this suit.

  
ATTORNEY FOR PLAINTIFFS

FILED

AUG 8 1969

ALICE J. DUCK CLERK  
REGISTER

At Agents  
Fairhope, Alabama

Gentlemen:

I We hereby make a firm offer of ~~200~~ ~~square~~ ~~feet~~ ~~of~~ ~~land~~ ~~and~~ ~~property~~ ~~located~~ ~~in~~ ~~Moss~~ ~~Bluff~~ ~~Alabama~~ ~~near~~ ~~the~~ ~~intersection~~ ~~of~~ ~~High~~ ~~Way~~ ~~161~~ ~~and~~ ~~Highway~~ ~~100~~  
~~LOT~~ ~~SIZE~~ ~~13~~ ~~feet~~ ~~x~~ ~~209~~ ~~feet~~  
Property has City water & natural gas.  
See Exhibit A for legal description. A.H.

The purchase price of the property to be paid on the following terms and conditions, viz:  
CASH - Based upon 10% U.S. APPRAISAL  
\* Loan for 30/YRS  
IN EVENT LOAN IS DENIED EARNEST MONEY WILL  
BE RETURNED.

I herewith deposit with you the sum of \$100.00 as earnest money, which is to be held by you in escrow pending the closing of the sale. In the event of acceptance of this offer and at the time of closing of the sale said deposit shall be applied on or toward cash payment. In event this offer is not accepted or the title is not merchantable, the said deposit is to be returned to me. However, in event I should fail to complete the purchase of the property after owner accepts this offer and furnishes merchantable title then you are to retain the deposit as liquidated damages.

If title is merchantable, conveyance will be made by warranty deed, without ~~tax~~ ~~with~~ ~~conditions~~ ~~limit~~ ~~of~~ ~~mortgage~~ ~~Contract~~ ~~of~~ ~~Sale~~ ~~and~~ ~~Proceeds~~ ~~of~~ ~~interest~~ ~~to~~ ~~the~~ ~~seller's~~ ~~expense~~ ~~Abstract~~ ~~not~~ ~~transfer~~ Title Insurance will be furnished by seller.

All Ad Valorem Taxes, Insurance and Rents are to be prorated as of date of closing of sale

Special assessments levied upon the herein described property are to ~~be~~ ~~paid~~ ~~by~~ ~~seller~~ ~~before~~ ~~closing~~

I am to be given possession of the property within a period of 30 days from the date the deal is consummated

In event the purchase is completed I desire that instruments transferring the property to me to be made to  
JAMES R ANDERSON & DIANA M ANDERSON  
(If joint ownership, with or without Survivors Clause)

This offer is made for a period of 3 days, and if it is not either accepted or rejected within that period of time, the offer shall become null and void and my deposit is to be returned upon demand. The foregoing constitutes the entire agreement with reference to the purchase of the within described property. No terms or conditions agreed on verbally will be recognized. Any changes made must be in writing and approved by all parties to the contract.

"It is expressly agreed, that, notwithstanding any other provisions of this contract, the purchaser shall not be obligated to complete the purchase of the property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless the seller has delivered to the purchaser a written statement issued by the Federal Housing Commissioner setting forth the appraised value of the property for mortgage insurance purposes of not less than \$17,000, which statement the seller hereby agrees to deliver to the purchaser promptly after such appraised value statement is made available to the seller."

"The purchaser shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the appraised value set by the Federal Housing Commissioner."

*[Signature]*  
Address

Witness *[Signature]*

The above offer is hereby accepted. This price includes your commission of 6% of the sale price of the property.

Witness *[Signature]*

*[Signature]*  
Address  
Phone Number

Cummings-Wilson Realty Co.

559 N. SECTION STREET  
FAIRHOPE, ALABAMA 36533

PHONE 928-735

April 2 1969

1. Billie request to remove dead tree

2. Billie request to remove dead tree  
house

3. Dan will be going to the house

4. Some more work to be done

5. Billie request to remove dead tree  
house

W. Wilson

Received by [unclear]

CC - [unclear]

W. Wilson

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA  
Baldwin County

Circuit Court, Baldwin County

No. ....

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon ..... CHARLES A. SOUDERS and MARY F. SOUDERS

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint  
filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against.....

..... CHARLES A. SOUDERS and MARY F. SOUDERS ..... Defendant.....

by WILSON & YEAGER .....

..... Plaintiff.....

Witness my hand this..... 8 ..... day of August ..... 1969  
Alice J. Duck, Clerk

248-11-69

8867

No. ~~10682~~

Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

WILSON & YEAGER, a Co-Partnership  
composed of WALTER M. WILSON and  
DOROTHY YEAGER,

Plaintiffs

vs.

CHARLES A. SOUDERS and MARY F.  
SOUDERS,

Defendants

SUMMONS AND COMPLAINT

Filed ..... 19.....

FILED

..... Clerk

AUG 8 1969

ALICE J. BUCK

CLERK  
REGISTER

..... JOHN V. BUCK

Plaintiff's Attorney

.....  
Defendant's Attorney

Defendant lives at

801 Prospect, Fairhope, Ala.

Received In Office

8/8

1969

Taylor Wilkins Sheriff

I have executed this summons

this Aug 11 1969

by leaving a copy with

Charles A. Souders  
Mary F. Souders

Sheriff claims 140 miles at

Ten Cents per mile Total \$ 14.00

TAYLOR WILKINS, Sheriff

BY Randall  
DEPUTY SHERIFF

Taylor Wilkins Sheriff

Randall Deputy Sheriff

Fairhope