

JUN 30 1955

1992

THE STATE OF ALABAMA - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1954-55

1 Div. 594

Ouy E. Brooks

v.

Orlow Brooks, as Administrator etc.

Appeal from Baldwin Circuit Court

GOODWIN, JUSTICE.

Appellant filed a claim against his mother's estate for services rendered over a period of some 29 years. The probate court denied the claim. An appeal was then taken to the circuit court. The basis of the claim, as stated in the complaint filed in the circuit court, is an alleged oral contract

entered into on May 23, 1923, whereby the mother "agreed to reasonably compensate the said plaintiff out of her estate upon her death, for his services which he agreed to perform in operating or assisting in operating the farm of which she died seized during the period from, to-wit, June 1, 1923 to the date of her death, to-wit, March 20, 1952". The complaint also alleges that appellant (plaintiff) "fully performed the said contract in all respects on his part, but that the said Emma J. Brooks (the mother) failed to perform her aforesaid agreement in that she failed to reasonably compensate the plaintiff for his said services"; and that the \$30,500 claimed "is a reasonable compensation to him for the services performed by him under the aforesaid contract."

On the trial in the circuit court the plaintiff took the stand as a witness in his own behalf. He first attempted to prove the oral contract by testifying to a conversation he had with his mother. Defendant's objection to such testimony was sustained. Plaintiff then attempted, by his own testimony, to prove the rendering of the alleged services and the facts and circumstances surrounding such services for the purpose of establishing the agreement by inference therefrom. Defendant's objection to this testimony was also sustained. Plaintiff then took an involuntary nonsuit. This appeal is from the judgment of nonsuit.

Motion to strike transcript of evidence.

Before reaching the merits of the case we dispose of appellee's motion to strike the reporter's transcript of evidence because it was not filed within the time prescribed by Supreme Court Rule 48, Code 1940, Tit. 7, Appendix, Pocket Part.

The trial in the circuit court was had on September 18, 1953. The appeal to the Supreme Court was taken on February 26, 1954. The reporter's transcript of the evidence was filed in the circuit clerk's office on March 30, 1954.

The question presented by the motion is whether Supreme Court Rule 48 is applicable or whether the provisions of Code 1940, Tit. 7, § 827(1), § 827(1a), § 827 (1b), Pocket Part, (§§ 1, 2 and 3, Act No. 886, Appvd. Sept. 12, 1951, Gen. Acts 1951, pp. 1527, 1528, as amended by Act No. 80, Appvd. June 10, 1953, Gen. Acts 1953, p. 122) control to the exclusion of Rule 48. This specific question was recently decided in Nathins v. Kelley, Ala. Sup., 80 So. 2d 247, where it was held that the statute prevails. The statute provides for filing of the reporter's transcript of evidence in the circuit clerk's office within sixty days after taking of the appeal. It is obvious that the transcript of evidence was filed within the prescribed time. Accordingly, the motion to strike is without merit and is due to be denied. It is so ordered.

On the merits.

The correctness of the ruling excluding plaintiff's testimony concerning the conversation with his mother is not now challenged.

The position taken by appellant (plaintiff) is that he should have been permitted to testify with respect to the services rendered to the testatrix, and the circumstances surrounding those services, on the theory that such evidence would tend to show that the contract alleged in the \* \* \* complaint did in fact exist, and the jury might draw a reasonable



-4-

inference of the fact of the alleged contract from such evidence."

Here involved is the following portion of § 433,

Tit. 7, Code 1940, viz:

"\* \* \* no person having a pecuniary interest in the result of the suit or proceeding shall be allowed to testify against the party to whom his interest is opposed, as to any transaction with, or statement by, the deceased person whose estate is interested in the result of the suit or proceeding. \* \* \*"

We are faced with a situation where the plaintiff seeks, by his own testimony alone, to establish an oral contract with a deceased person whose estate is interested in the result of the suit. It is not questioned that he cannot do this by testifying to a conversation with the decedent. The disputed question is whether he can testify concerning the services rendered, and the factual circumstances incident thereto, so as to establish the alleged oral contract by inference from such testimony alone. In other words, would such testimony be "as to a transaction" with the deceased mother and within the prohibition of § 433, *supra*?

The record does not disclose just what facts and circumstances were sought to be proved by plaintiff. It may be that some part of his testimony would have been admissible as "collateral" and "independent" facts, under the principles approved in such cases as Richards v. Williams, 231 Ala. 450, 453, 165 So. 820; Hunt v. Burdock, 229 Ala. 277, 156 So. 241; Warten v. Black, 195 Ala. 93, 95, 99, 70 So. 758; and Miller v. Cannon, 24 Ala. 99, 64, 4 So. 204. See, also, Burnett v. Garrison, 261 Ala. 662, 629, 75 So. 2d 144.

cf. Dunbar v. Pitts, 145 Ala. 358, 39 So. 905, 8 Ann. Cas. 146. However, as the case is presented to us we must assume that plaintiff's testimony would have related not only to "collateral" and "independent" facts, and admittedly admissible as such, but also to facts which would tend to establish, by inference, the express contract declared on. So considered, it is our view that such testimony would be as to a transaction with the decedent and prohibited by § 433, supra. (We make it clear that we are not dealing with any question as to whether the making of the contract itself must first be established before evidence of "collateral" and "independent" facts would be admissible.)

There seems no doubt that the making of the oral contract was a transaction with decedent. And there is no doubt that plaintiff cannot prove, by his own testimony, the making of the contract itself. So, should he be permitted to testify to facts and circumstances from which the contract might be inferred? As we see it, plaintiff's testimony to the extent that it might go to prove the express contract by inference, cannot be said to be essentially different from direct proof of the contract by him, in so far as the prohibiting clause of § 433, supra, is concerned. It seems to us that permitting him to give his own testimony tending to prove the contract would be permitting him in legal effect, if not directly, to testify in his own behalf to the contract itself, upon which he seeks recovery in this case. In our opinion this was not intended to be allowed by the statute, § 433, supra. To permit it would be, to say the least, a violation of the policy and spirit of the statutory prohibition.

-6-

We note that we do not have presented at this time any question as to whether the express contract alleged in the complaint may be established by inference from the testimony of disinterested persons; nor whether recovery may be had on an implied contract or quantum meruit when an express contract is declared on.

Motion to strike transcript of evidence denied.

Judgment affirmed.

Livingston, C. J., concurs in the opinion. Lawson and Merrill, JJ., concur in the result. Simpson, Stokely and Mayfield, JJ., dissent.

[Over]



SIMPSON, JUSTICE, dissenting:

Appellant filed a claim against the estate of the decedent and sought to testify as to services rendered the decedent in operating and taking care of her farm. Objection to this testimony was sustained and appellant was forced into a voluntary nonsuit and brings this appeal. The question is as to the admissibility and not the sufficiency of this evidence to support the claim.

It is conceded that the appellant cannot establish his claim by proof of an express oral contract through his own testimony as to conversations with the deceased. - Code 1940, Title 7, § 433; Baye v. Alabama Marble Quarries, 199 Ala. 589, 75 So. 9.

But this does not preclude his testimony as to surrounding facts and circumstances tending to prove an implied contract or quantum meruit claim. A conversation establishing an express contract is a separate and distinct transaction from the rendering of services. The first is a private face to face dealing specifically falling within the ban of § 433. The latter, however, may or may not be covered by § 433, depending upon its nature. It is here that the kind of transaction is important. Rendering of services may be of a personal kind which by their very nature had to be performed in the presence of or with the knowledge and participation of the decedent, or they may be acts done in the absence of the deceased, without his or her immediate and personal

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participation but in that behalf. As was pointed out in Warten v. Black, 105 Ala. 93, 70 So. 758 (and quoted approvingly in Burnett v. Garrison, 261 Ala. 622, 75 So. 2d 144), the test is whether the deceased if alive would have been able to contradict the witness in the particulars testified about. "The rule of exclusion does not apply to evidence of facts and circumstances which though affecting the transaction constitute no part of it."

It was this underlying rationale which induced the decision in Duggar v. Pitts, 145 Ala. 358, 29 So. 905, holding that a physician was incompetent to testify in his own behalf in an action against the estate of a decedent for services rendered, the number of visits made and the extent of relief he afforded the decedent. This was regarded as a face to face transaction between the physician and decedent.

That status was also held to exist in Southern Natural Gas Co. v. Davidson, 225 Ala. 171, 142 So. 63, where it was held that the plaintiff in an automobile accident case could not testify as to the conduct of the defendant's deceased agent, who was driver of defendant's car.

But in Borum v. Bell, 132 Ala. 88, 31 So. 454, with respect to a claim by Mrs. Bell for board of her deceased grandfather, it was held that she could testify that he "came to her house and stayed there continuously until July 1897, when he left" etc., the court holding



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that this was not a transaction with the deceased, but was as to his conduct, open and apparent to the public about which any person knowing the facts may testify.

And in the Warren Case, supra, the claimant was allowed to testify as to the number of cattle he had pastured and attended for the decedent at various times, the court holding that such testimony was as to a collateral fact with reference to his claim and was not as to a transaction within the meaning of the statute.

Again in Hyde v. Starves, 247 Ala. 26, 22 So. 2d 431, the claimant was competent to testify in a quantum meruit claim as to what was a reasonable charge for her work in nursing and boarding the deceased.

Earlier in Hunt v. Murdock, 229 Ala. 277, 156 So. 841, the claimant was allowed to testify to the collateral fact that services were rendered.

From these cases it would appear that no particular type of claim is of consequence, but the test is the kind of "transaction." Because the claimant here sought to base his claim on a conversation that clearly could not be brought out in his testimony, he is not thereby precluded from testifying to facts other than the conversation, circ metascen, and limited transactions on behalf of the decedent - which are entirely separate and distinct - but which may in their summation tend to prove an implied contract or quantum meruit claim rather than the forbidden express contract.

It results from the foregoing that I cannot agree with the majority opinion and therefore respectfully dissent.

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 594,

Guy E. Brooks, Appellant

vs.

Orlow Brooks, as Administrator etc., Appellee,

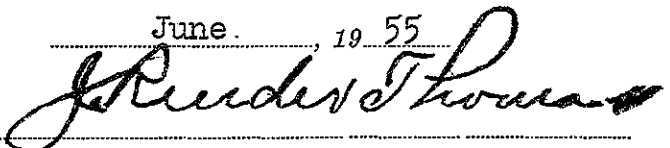
From Baldwin Circuit Court.

The State of Alabama,  
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to nine inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme  
Court of Alabama, this the 30th day of

June, 19 55



Clerk of the Supreme Court of Alabama

---

THE SUPREME COURT OF ALABAMA

October Term, 19... 54-55

1st Div., No. 594

Guy E. Brooks

Appellant,

vs.

Orlow Brooks, as

Administrator etc. Appellee.

From Baldwin Circuit Court:

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COPY OF OPINION

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SKINNER



JUNE 30, 1955

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1954-55

1 DIV. 594

Guy E. Brooks

vs.

Orlow Brooks, as Administrator  
of the Estate of Emma Brooks,  
Deceased,

Baldwin Circuit Court  
No. 1992

Come the parties by attorneys, and appellee's motion to strike the transcript of evidence, and the record and matters therein assigned for errors, being argued and submitted and duly examined and understood by the Court, it is considered that appellee's motion to strike the transcript of evidence is without merit and that the motion be and the same is hereby denied.

IT IS FURTHER CONSIDERED that in the record and proceedings of the Circuit Court there is no error.

IT IS THEREFORE CONSIDERED, ORDERED, AND ADJUDGED that the judgment of the Circuit Court be and the same is hereby in all things affirmed.

IT IS FURTHER CONSIDERED, ORDERED, AND ADJUDGED that the appellant, Guy E. Brooks, and Mobile Bonding Company, surety on the appeal bond, pay the costs of appeal of this Court and of the Circuit Court.

And it appearing that said parties have waived their rights of exemption under the laws of Alabama, let execution issue accordingly.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1954-55

1st Div., No. 594

GUY E. BROOKS

, Appellant,

v.

ORLOW BROOKS, AS ADMINISTRATOR  
OF THE ESTATE OF EMMA BROOKS, DECEASED, Appellee,

From BALDWIN CIRCUIT

Court.

No. 1992

The State of Alabama,  
City and County of Montgomery. }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages numbered from one to t w o inclusive, contain a full, true, and correct copy of the JUDGMENT DENYING APPELLEE'S MOTION TO STRIKE TRANSCRIPT OF EVIDENCE AND AFFIRMING THE JUDGMENT OF THE CIRCUIT COURT, MADE BY said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme

Court of Alabama, this the 30th day of

~~JUNE~~ 19 55

*J. Render Thomas*

Clerk of the Supreme Court of Alabama.



OCTOBER TERM 1954-55  
THE SUPREME COURT OF ALABAMA

1st Div., No. 594

GUY E. BROOKS

*Appellant,*

*v.*

ORLOW BROOKS, AS ADMINISTRATOR  
OF THE ESTATE OF EMMA BROOKS,  
DECEASED,

*Appellee.*

From Baldwin Circuit Court.  
No. 1992

*Certified Copy of*

JUDGMENT DENYING APPELLEE'S  
MOTION TO STRIKE TRANSCRIPT  
OF EVIDENCE AND AFFIRMING JUDGMENT  
OF CIRCUIT COURT.

JUNE 30, 1955

THE STATE OF ALABAMA }  
Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the .....  
18th day of September ..... ~~Monday~~ <sup>1954</sup>, in a cer-  
tain cause in said Court wherein Guy E. Brooks  
Plaintiff, and Orlow P Brooks, as Executor of the  
Estate of Emma J. Brooks Defendant, a judgment was rendered against said  
Guy E. Brooks  
to reverse which Judgment, the said Guy E. Brooks  
applied for and obtained from this office an APPEAL, returnable to the next  
Term of our Supreme Court of the State of Alabama, to be held at Montgomery,  
on the ..... day of ....., 194..... next, and the necessary bond  
having been given by the said Guy E. Brooks  
with Mobile Bonding Company, sureties,

Now, You Are Hereby Commanded, without delay, to cite the said Orlow P. Brooks  
or J. B. Blackburn  
....., attorney, to appear at the next Term of our  
said Supreme Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 26th  
day of February, A. D., 194<sup>54</sup>

Attest:

Alice J. Duck, Clerk.

Received 4 day of Nov 1954  
and on 4 day of Mar 1954

I served a copy of the within  
on \_\_\_\_\_

By service on J. B. Blochbaum

TAYLOR WILKINS, Sheriff  
By Pat Delle D.S.

No. 1992

**CIRCUIT COURT**  
**Baldwin County, Alabama**

GUY E. BROOKS

Vs. } Citation in Appeal

ORLOW P. BROOKS, as Executor  
of the Estate of  
EMMA J. BROOKS, deceased

Issued \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_\_

*serve on  
Mr. J. B. Blochbaum*



GUY E. BROOKS,

Plaintiff,

-VS-

ORLOW P. BROOKS, as  
Executor of the Estate  
of EMMA J. BROOKS,  
Deceased,  
Defendant,

Ø

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

Ø

NO. 1992

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NOTICE OF APPEAL

Comes the Plaintiff, in the above styled cause, Guy E. Brooks, and gives notice of appeal from the judgment of the Circuit Court of Baldwin County, Alabama, rendered on the 18th day of September, 1953, to the Supreme Court of Alabama.

*Herndon H. Wilson James E. Moore*  
Herndon H. Wilson & James E. Moore,  
Attorneys for Plaintiff

I, the undersigned, hereby acknowledge and accept service of the Notice of Appeal filed in this cause, and waive the issuance of a Citation in Appeal, this \_\_\_\_\_ day of February, 1954.

\_\_\_\_\_  
Attorney for Defendant.

Fried. 2-26-54  
Anag. ranch  
clerk

Div. No. \_\_\_\_\_ CERTIFICATE OF APPEAL (Civil Cases)

No. 1992 Baldwin County, Circuit Court.

GUY E. BROOKS  
Plaintiff  
vs.

ORLOW BROOKS, as Administrator of  
the Estate of Emma Brooks, deceased

I, Alice J. Duck, Clerk of Circuit Court,  
of Baldwin County, Alabama, hereby certify that in the cause of  
GUY E. BROOKS Plaintiff-----,  
vs.

~~ORLOW BROOKS, as Adm. of the Estate of Emma Brooks, deceased~~ Defendant---,  
which was tried and determined in this Court, on the 18th day of September 19 53  
in which there was a judgment for Non suit Dollars, ~~in favor of the Plaintiff,~~  
(or judgment for Defendant), the Plaintiff on the 26th day of February  
19 54 took an appeal to the Supreme Court of Alabama to be holden of and for said State.

I further certify that Guy E. Brooks filed  
security for cost of appeal, to the Supreme Court, on the 26th day of February  
19 54, and that Mobile Bonding Company

are sureties on the appeal bond.

I further certify that notice of the said appeal was, on the \_\_\_\_\_ day of March  
19 54, served on J. B. Blackburn as attorney of record for said  
appellee, and that the amount sued for was ( Non- suit ) Dollars.  
(or certain lands) (or personal property)

Witness my hand and seal of this Court, this the 3rd day of March 19 54.

\_\_\_\_\_  
Clerk of the Circuit Court of

\_\_\_\_\_  
County, Alabama



141

JAMES E. MOORE  
ATTORNEY AT LAW  
608 VAN ANTWERP BUILDING  
MOBILE 12, ALABAMA  
TELEPHONE 3-9526

February 24, 1954

Mrs. Alice Duck, Clerk  
Baldwin County Circuit Court  
Bay Minette, Alabama

Re: Guy E. Brooks v. Orlow P. Brooks,  
as Executor, etc. At Law #1992

Dear Mrs. Duck:

Will you please accept for filing the enclosed  
Notice of Appeal and Appeal Bond which we are herewith  
filing on behalf of the Plaintiff in the above noted cause.

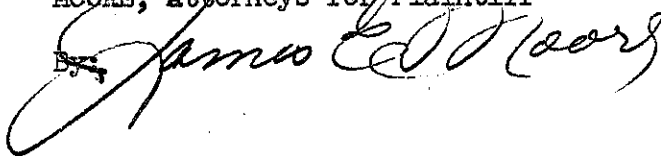
We have noted an acceptance of service of the  
Notice of Appeal for Mr. Blackburn's signature in order to  
minimize costs, and would ask if you will ask him to accept  
service in this way.

We will appreciate your reply by return mail  
informing us of the date you have accepted the within Notice  
and Bond.

Thanking you for all of your courtesies, we  
are

Very truly yours,

HERNDON H. WILSON AND JAMES E.  
MOORE, Attorneys for Plaintiff



HHW&JEM/eg  
encl. (2)

March 6, 1954

Hon. James E. Moore  
608 Van Antwerp Bldg.  
Mobile, Alabama

RE: Guy E. Brooks  
vs.  
Orlow Brooks, as Adm. etc

Dear Sir:

The Notice Of Appeal and the Appeal Bond in the above styled cause were filed February 26th, 1954 and citation was issued ~~sint~~the attorney would not accept service. The Certificate of Appeal has been mailed to the Supreme Court and your record will be made just as soon as you make arrangements with the Court Reporter for the Transcript.

Sincerely yours,

Clerk of Circuit Court

COPY

IN THE ESTATE OF:

EMMA J. BROOKS,

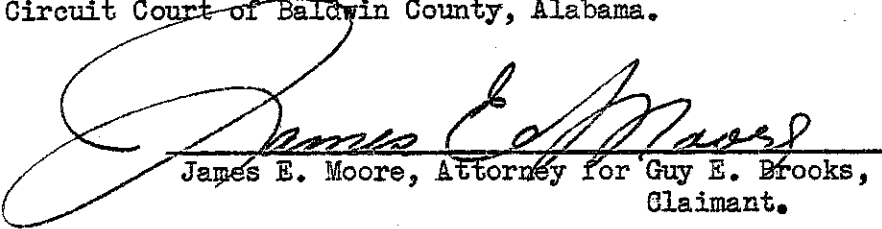
Deceased.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA.

NO. \_\_\_\_\_

Comes Guy E. Brooks, Claimant, in the matter of the above estate by claim filed on, to-wit, July 23, 1952, which said claim was contested by the Executor of the said estate, upon the hearing of which contest this Court denied the said claim in its entirety by decree rendered by the said Court on April 1, 1953, and herewith files this his Appeal from the said verdict and judgment of the Court, denying his said claim, and does hereby appeal to the Circuit Court of Baldwin County, Alabama, on said judgment.

WHEREFORE Claimant prays that Your Honor will forward the record in this cause, in so much as the same may be required by law, to the Circuit Court of Baldwin County, Alabama.

  
James E. Moore, Attorney for Guy E. Brooks,  
Claimant.

STATE OF ALABAMA, BALDWIN COUNTY

Filed May 1, 1953 2:30 PM

Recorded Probate book "O" page 77

W. R. Stuart  
Judge of Probate

I, J. B. Blackburn, as Attorney for Orlow P. Brooks, Administrator of the above named Estate, do hereby accept service of notice of the filing of the above appeal.

Witness my hand this the 1st day of May, 1953.

J. B. Blackburn  
By J. B. Blackburn

Appeal.

RECORDED  
INDEXED

My E. Brooks

vs.

Orlow Brooks  
as Executor of Estate  
of  
Emma J. Brooks  
Deceased.

FILED

MAY 11 1953

ALICE J. DUCK, Clerk

GUY E. BROOKS,

Plaintiff,

-VS-

ORLOW P. BROOKS, as  
Executor of the Estate  
of EMMA J. BROOKS,  
Deceased,  
Defendant,

§

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

§

NO. 1992

§

§

NOTICE OF APPEAL

Comes the Plaintiff, in the above styled cause, Guy E. Brooks, and gives notice of appeal from the judgment of the Circuit Court of Baldwin County, Alabama, rendered on the 18th day of September, 1953, to the Supreme Court of Alabama.

*Hernon H. Wilson & James E. Moore*  
Hernon H. Wilson & James E. Moore,  
Attorneys for Plaintiff

I, the undersigned, hereby acknowledge and accept service of the Notice of Appeal filed in this cause, and waive the issuance of a Citation in Appeal, this \_\_\_\_\_ day of February, 1954.

\_\_\_\_\_  
Attorney for Defendant.



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

GUY E. BROOKS,

Plaintiff,


-VS-

NO. 1991

WILLIAM P. BROOKS, as  
Executor of the Estate  
of WENDY J. BROOKS,  
Deceased,  
Defendant.

NOTICE OF APPEAL

Comes the Plaintiff, in the above styled cause, Guy E. Brooks, and gives notice of appeal from the judgment of the Circuit Court of Baldwin County, Alabama, rendered on the 18th day of September, 1953, to the Supreme Court of Alabama.

  
Raymond E. Wilson & James E. Moore,  
Attorneys for Plaintiff.

I, the undersigned, hereby acknowledge and accept  
service of the Notice of Appeal filed in this cause, and waive  
the issuance of a Citation to Appeal, this \_\_\_\_\_ day of  
February, 1954.

\_\_\_\_\_  
Attorney for Defendant.

Filed 2-26-54  
Wiley J. Smith  
Clerk

GUY E. BROOKS,

Plaintiff,

-vs-

ORLOW F. BROOKS, as Executor  
of the Estate of EMMA J. BROOKS,  
Deceased,

Defendant.

IN THE

CIRCUIT COURT OF BALDWIN

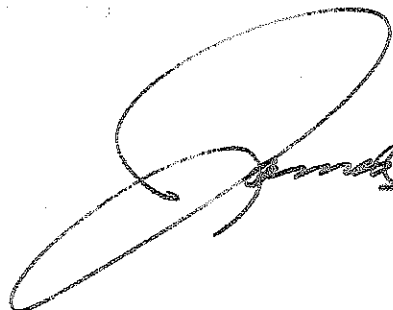
COUNTY, ALABAMA.

AT LAW. NO. \_\_\_\_\_

Comes the Plaintiff and reads his Complaint to read as follows:

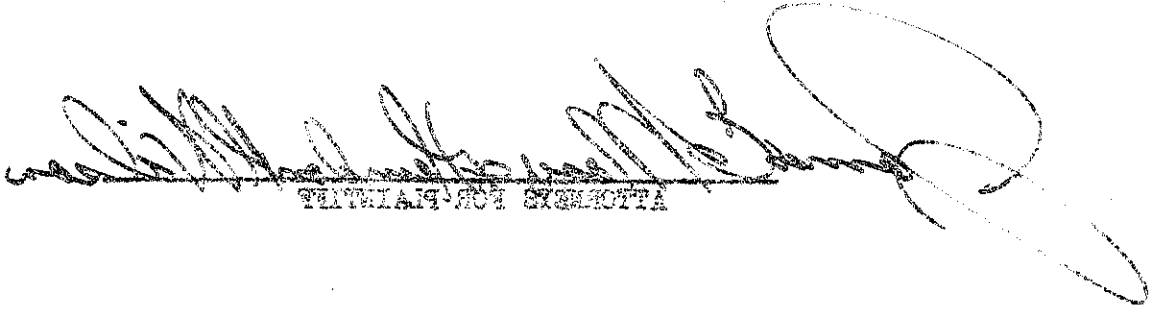
Plaintiff claims of the Defendant the sum of THIRTY THOUSAND, FIVE HUNDRED AND NO/100 (\$30,500.00) DOLLARS which he alleges is due him from the Estate of Emma J. Brooks, deceased, under and by the terms of an oral contract entered into by and between the Plaintiff and the said Emma J. Brooks on, to-wit: May 23, 1923, whereby she agreed to reasonably compensate the said Plaintiff out of her estate upon her death, for his services which he agreed to perform in operating or assisting in operating the farm of which she died seized during the period from, to-wit: June 1, 1923, to the date of her death, to-wit: March 20, 1952; and Plaintiff avers that he fully performed the said contract in all respects on his part, but that the said Emma J. Brooks failed to perform her aforesaid agreement in that she failed to reasonably compensate the Plaintiff for his said services; and Plaintiff avers that the aforesaid sum of THIRTY THOUSAND FIVE HUNDRED AND NO/100 (\$30,500.00) DOLLARS is a reasonable compensation to him for the services performed by him under the aforesaid contract. And the Plaintiff avers that he did file claim against the estate of the aforesaid Emma J. Brooks, Deceased, in the Probate Court of Baldwin County, Alabama, within the six months period provided by law for the filing of claims, that said claim was and is the same claim as set out in this complaint, that said claim was

disputed in whole by the Executor of the said estate and was duly heard, and upon hearing, denied in whole by the said Probate Court, whereupon and within thirty days of said finding of said Court the Plaintiff did appeal the said finding to this Court.

 James E. Newcomb & Wilson  
ATTORNEYS FOR PLAINTIFF

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disputed in whole by the executor of the said estate and was duly  
heard, and upon hearing, denied in whole by the said Probate Court,  
whereupon and within thirty days of said finding of said Court the  
plaintiff did appeal the said finding to this Court.

  
ATTORNEY FOR PLAINTIFF

Rec'd 9/16/33  
Quef. 10/10/33  
Quef. 10/10/33

GUY E. BROOKS,	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
ORLOW P. BROOKS, as Executor	)	AT LAW
of the Estate of Emma J.	)	
Brooks, Deceased,	)	
Defendant.	)	

ANSWER

Now comes Orlow P. Brooks, as Executor of the Estate of Emma J. Brooks, Deceased, and for answer to the amended claim (amended complaint) filed in this cause by Guy E. Brooks, assigns, separately and severally, the following:

1. The said executor disputes the said claim in its entirety.
2. The allegations of the amended claim or amended complaint are untrue.
3. The defendant, for answer to the amended claim or amended complaint, saith that the claim is barred by the statute of limitations of three years.
4. The defendant, for answer to the amended claim or amended complaint, saith that the claim is barred by the statute of limitations of six years.

*J. B. T. Blackburn*  
 Attorney for defendant.

ANSWER

GUY E. BROOKS,

VS.

Plaintiff,

ORLOW P. BROOKS, as Executor  
of the Estate of Emma J.  
Brooks, Deceased,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

Filed 9-18-53  
W. J. Smith  
Clerk



GUY E. BROOKS,

Plaintiff,

vs

ORLOW P. BROOKS, as Executor  
of the Estate of Emma J.  
Brooks, Deceased,

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA, AT LAW

REPLICATION

Comes the Plaintiff and for replication to the Defendant's Answer  
saith as follows: ~~assigning his replication to each and every plea~~  
~~specifying the same as follows:~~

1. For answer to Plea '3' of the Answer Plaintiff says that  
his Complaint shows on its face that the rights of the Plaintiff under  
his alleged contract with the said Emma J. Brooks did not accrue until  
the death of the said Emma J. Brooks, the date of which death said  
Complaint alleged to have been March 20, 1952. Wherefore Plaintiff has  
commenced his action within three years and after it accrued.

2. For answer to Plea '4' of Defendant's Answer, Plaintiff  
says that his Complaint shows on its face that Plaintiff's right of  
action under his alleged contract with the said Emma J. Brooks did  
not accrue until the date of her death, which date the Complaint al-  
leges to have been March 20, 1952; wherefore the Plaintiff has com-  
menced his action within six (6) years after it accrued.

  
Attorney for the Plaintiff.

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*Handwritten signature and text:*  
 Entered for the Plaintiff  
 [Signature]  
 [Signature]

*Filed 9-18-53*  
*W. J. [unclear]*  
*clerk*

measured the section within six (6) days after it occurred.

It was to have been March 30, 1935, otherwise the Plaintiff was not  
 not aware until the date of her death, which date the complaint al-  
 leged under the alleged contract with the said James W. Brooks did  
 not give him complaint upon on the face of the Plaintiff's right of  
 S. for straw, to live, it, of Defendant's answer, Plaintiff  
 commenced his action within three years as there is nothing.

Complaint alleges to have been March 30, 1935. Wherefore Plaintiff is a  
 the death of the said James W. Brooks, the date of which death said  
 his alleged contract with the said James W. Brooks did not occur until  
 his complaint arose on the face of the rights of the Plaintiff under  
 it not answer to live, it, of the answer, Plaintiff as to that

DEFENDANT'S ANSWER

and as follows: ~~Plaintiff's complaint is barred by the statute of limitations.~~  
 Comes the Plaintiff and for repledition to the Defendant's answer.

REPLEDITION

Defendant	1	
Brooks, Decedent	1	
of the Estate of James W.	1	
vs. BROOKS, as Executor	1	
et	1	
Plaintiff	1	ANDREW DONNELLY, ATTORNEY AT LAW,
AND W. BROOKS	1	IN THE CIRCUIT COURT OF

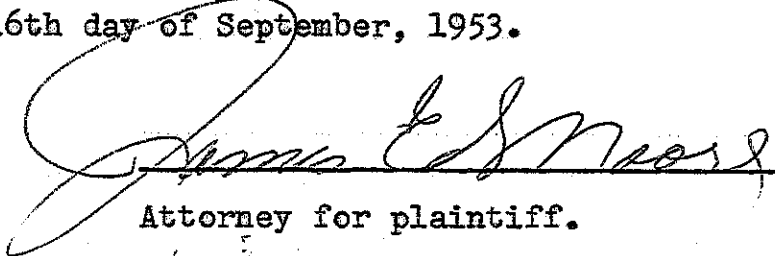
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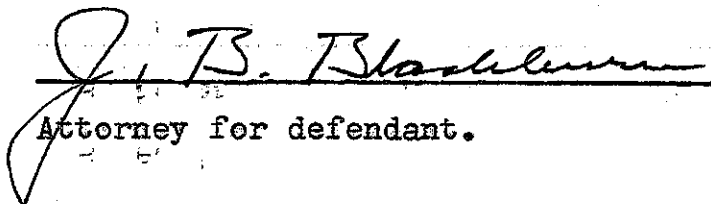
GUY E. BROOKS,	)	
	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
ORLOW P. BROOKS, as Executor	)	AT LAW
of the Estate of Emma J.	)	
Brooks, Deceased,	)	
Defendant.	)	

# AGREEMENT

In this cause Hubert M. Hall, Judge of the Twenty-eighth Judicial Circuit of Alabama, having recused himself on motion of the plaintiff, it is agreed by and between the parties to this cause, acting through their respective attorneys, that this cause be tried by John Chason, a disinterested person practicing in this court and learned in the law, as special judge, in the manner provided by Title 13, Section 124 of the 1940 Code of Alabama.

Dated this 16th day of September, 1953.

  
Attorney for plaintiff.

  
Attorney for defendant.

AGREEMENT

GUY E. BROOKS,

Plaintiff,

VS.

ORLOW P. BROOKS, as Executor  
of the Estate of Emma J.  
Brooks, Deceased,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

AT LAW

*Filed 9-16-53*  
*Cliff Jenkins*  
*clerk*

GUY E. BROOKS,

Plaintiff,

1

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

1

AT LAW.

-vs-

NO. 1992-

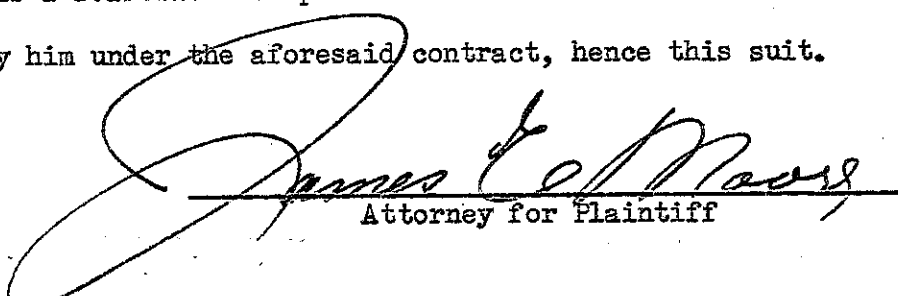
ORLOW P. BROOKS, as Executor  
of the Estate of EMMA J. BROOKS, 1  
Deceased.

Defendant,

1

COMPLAINT

Plaintiff claims of the Defendant the sum of Thirty thousand, five hundred and NO/100ths (\$30,500.00) Dollars which he alleges is due him from the Estate of Emma J. Brooks, deceased, under and by the terms of an oral contract between the Plaintiff and the said Emma J. Brooks whereby she agreed to reasonably compensate the said Plaintiff out of her estate upon her death, for his services in operating or assisting in operating the farm of which she died siezed during the period from, to-wit, May 23, 1923 to the date of her death, to-wit, March 20, 1952; and Plaintiff avers that he fully performed the said contract in all respects on his part, but that the said Emma J. Brooks failed to perform her aforesaid agreement therein; and Plaintiff avers that the aforesaid sum of \$30,500.00 is a reasonable compensation to him for the services performed by him under the aforesaid contract, hence this suit.

  
Attorney for Plaintiff

Plaintiff demands trial by Jury.

  
Attorney for Plaintiff

Respondent's address:

See Mr. J. B. Blackburn  
Attorney at Law  
Bay Minette, Alabama

SUMMONS AND COMPLAINT

Moore Printing Co.

THE STATE OF ALABAMA,  
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 1992

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Orlow P. Brooks

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

Orlow P. Brooks

, Defendant

by Guy E. Brooks

, Plaintiff

Witness my hand this 11th day of May 19 53

Alice J. Hencke, Clerk



RECORDED

June

No. 1992

Page

THE STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

GUY E. BROOKS

Plaintiffs

vs.

ORBOW P. BROOKS, as Executor of

the Estate of Emma J. Brooks  
deceased Defendants

SUMMONS and COMPLAINT

Filed 5-11-53, 19

*W. J. French* Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

May 12, 1953

*Taylor Wilkins* Sheriff

I have executed this summons

this, 19  
by leaving a copy with

Returned 13 day of May, 19  
Not found in my county after diligent search and inquiry.

*Taylor Wilkins* Sheriff

By *P. J. Sullivan*  
Deputy Sheriff

I hereby accept  
service this 5th  
day of June 1953  
*J. B. Blocker*  
by *John R. O.*

Sheriff

Deputy Sheriff

ESTATE OF ) IN THE PROBATE COURT OF  
\*  
EMMA J. BROOKS, DECEASED. ) BALDWIN COUNTY, ALABAMA

DECREE DENYING CLAIM OF GUY E. BROOKS

This cause coming on to be heard on this date is submitted on the claim filed in this cause on, to-wit, July 23, 1952, by Guy E. Brooks; the contest of the said claim filed in this cause on, to-wit, the 9th day of February, 1953 by Orlow P. Brooks, as Executor of and under the Last Will and Testament of Emma J. Brooks, Deceased; the written stipulation of the parties dated and filed on this date, which recites that this cause has been set for hearing on this date by agreement of the parties, that all notices of every kind and nature in connection with the said hearing are waived, and that the issues to be determined on the hearing of the said claim are as follows:

"1. Was there a valid contract between the claimant, Guy E. Brooks, and the decedent, Emma J. Brooks, whereby Guy E. Brooks was to render personal services to Emma J. Brooks for compensation during all or any part of the period set out in the claim filed in this cause by Guy E. Brooks?

"2. If there was a valid contract between Guy E. Brooks and the decedent, Emma J. Brooks, as provided above, for what period of time did Guy E. Brooks render such services to the decedent, and what was the value thereof?

"3. Is all or any part of the claim filed by Guy E. Brooks against the Estate of Emma J. Brooks barred by the statute of limitations (a) of three years (b) of six years (c) of ten years?"

This day came the parties, their attorneys and their respective witnesses, and after hearing the testimony of the witnesses for the said parties, the Court is of the opinion that the claimant, Guy E. Brooks, has not established a valid contract with the decedent, Emma J. Brooks, and that his said claim should be denied; upon consideration of which, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The claim for \$30,500.00 filed in this cause by Guy E. Brooks on, to-wit, July 23, 1952, which has been contested by Orlow P. Brooks, as Executor of and under the Last Will and Testament of Emma J. Brooks, Deceased, is invalid and of no effect, and the same shall be and it is hereby denied in all respects.

2. The costs of this proceeding are hereby taxed against the said claimant, Guy E. Brooks, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 1st day of April, 1953.

  
Judge of Probate

STATE OF ALABAMA, BALDWIN COUNTY

Recorded Minute Book "0" page 169  
W. R. Stuart  
Judge of Probate  
HP

DECREE DENYING CLAIM OF GUY E.  
BROOKS.

ESTATE OF

EMMA J. BROOKS, DECEASED.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

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

ESTATE OF  
EMMA J. BROOKS, DECEASED.

)  
\*  
)

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

### STIPULATION

It is stipulated and agreed by and between the parties to this cause, acting by and through their respective attorneys, that the issues to be determined on the hearing of the claim for Thirty Thousand Five Hundred Dollars (\$30,500.00), which was filed in this cause by Guy E. Brooks on, to-wit, July 23, 1952, and which has been disputed in its entirety by Orlow P. Brooks, as Executor of and under the Last Will and Testament of the said decedent, are as follows:

1. Was there a valid contract between the claimant, Guy E. Brooks, and the decedent, Emma J. Brooks, whereby Guy E. Brooks was to render personal services to Emma J. Brooks for compensation during all or any part of the period set out in the claim filed in this cause by Guy E. Brooks?

2. If there was a valid contract between Guy E. Brooks and the decedent, Emma J. Brooks, as provided above, for what period of time did Guy E. Brooks render such services to the decedent, and what was the value thereof?

3. Is all or any part of the claim filed by Guy E. Brooks against the Estate of Emma J. Brooks barred by the statute of limitations (a) of three years (b) of six years (c) of ten years?

This cause having been set for hearing on this date by agreement of the parties, all notices of every kind and nature in connection with the said hearing are waived.

The filing of this stipulation shall not prevent further pleadings of either party to this cause in the Circuit Court of Baldwin County, Alabama, in the event an appeal is taken to such court.

Dated this 1st day of April, 1953.

GUY E. BROOKS

By 

As his Attorneys.

ORLOW P. BROOKS,  
As Executor of and under the Last Will  
and Testament of Emma J. Brooks, Deceased,

By J. B. Blackburn  
As his Attorney.

STATE OF ALABAMA, BALDWIN COUNTY

Filed April 1, 1953 M

Recorded Probate book "Q" page 77

W. R. Stuart

Judge of Probate KS



STIPULATION

ESTATE OF

EMMA J. BROOKS, DECEASED.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

ESTATE OF ) IN THE PROBATE COURT OF  
EMMA J. BROOKS, DECEASED. \* BALDWIN COUNTY, ALABAMA

CONTEST OF CLAIM

Now comes Orlow P. Brooks, Executor of and under the Last Will and Testament of the said decedent, Emma J. Brooks, and contests, in its entirety, the claim for Thirty Thousand Five Hundred Dollars (\$30,500.00), which was filed in the Probate Court of Baldwin County, Alabama on, to-wit, July 23, 1952, by Guy E. Brooks. The said Orlow P. Brooks, as said Executor, also files this is written application that the Probate Court of Baldwin County, Alabama, the court where the administration of the said estate is pending, hear and pass upon the validity of such claim, after giving notice as required by Title 61, Section 216 of the 1940 Code of Alabama, as amended.

Dated this 9th day of February, 1953.

ORLOW P. BROOKS,  
As Executor of and under the Last  
Will and Testament of Emma J. Brooks,  
Deceased,

STATE OF ALABAMA, BALDWIN COUNTY

Filed Feb. 10, 1953 M  
Recorded Probate book "Q" page 76  
W. R. Stuart  
Judge of Probate

By

J. B. Blachum  
As his attorney.

CONTEST OF CLAIM  
ESTATE OF  
EMMA J. BROOKS, DECEASED.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

STATEMENT OF ACCOUNT  
BETWEEN

EMMA J. BROOKS and GUY E. BROOKS

DUE GUY E. BROOKS:

For services rendered to Emma J. Brooks, deceased, in the operation of farm, including all of the work and labor performed in connection therewith for the period of approximately twenty-nine (29) years during her life, from May 1923 to date of her death, March 20, 1952. ....\$30,500.00

\*\*\*\*\*

IN THE MATTER OF THE ESTATE OF  
EMMA J. BROOKS, Deceased.

I  
IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA.  
I  
I

STATE OF ALABAMA I  
COUNTY OF MOBILE I

Before me, James E. Moore, a Notary Public in and for said state and county, personally appeared Guy E. Brooks, who, upon first being duly sworn by me, on oath, deposes and says that the foregoing statement of account against EMMA J. BROOKS, which is made a part hereof, constitutes a true and correct statement of claim against the Estate of the said EMMA J. BROOKS, now deceased, by the Affiant, and that the amount claimed therein is justly due Affiant after allowing all proper credits.

IN WITNESS WHEREOF, Affiant has hereunto set his hand and seal on this 21<sup>st</sup> day of July, 1952.

  
Guy E. Brooks

Subscribed and sworn to before me  
on this 21<sup>st</sup> day of July, 1952.

  
Notary Public, Mobile County, Alabama.

STATE OF ALABAMA, BALDWIN COUNTY  
Filed July 23 1952 M  
Recorded Blair book 2 page 10  
W R Stuart  
Judge of Probate

Claim Book # 2 p 10

GUY E. BROOKS,

Plaintiff,

§ IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

§ AT LAW.

-VS-

ORLOW P. BROOKS, as  
Executor of the Estate of  
EMMA J. BROOKS, Deceased.

§ NO. 1992

Defendant,

§

APPEAL BOND

We, the undersigned, hereby acknowledge ourselves  
security for costs of Appeal to the Supreme Court of Alabama, in  
the above styled cause, returnable to the next term thereof.  
And for payment of the above bond, we hereby waive our right of  
exemption to personal property under the Constitution and Laws of  
the State of Alabama.

Guy E. Brooks  
Guy E. Brooks

Mobile Bonding Co.

By: A. J. Harvey, Jr.

Taken and approved this 26<sup>th</sup> day of February, 1954.

Leise J. French

Were the above Appeal Bond or Security for Costs of  
Appeal presented to me as Clerk of the Circuit Court of  
Mobile County, Alabama, I would approve the same.

Done this the 23rd day of February 1954.

W. E. Mauderville  
CLERK, CIRCUIT COURT, MOBILE COUNTY, ALA.

no 1992 -

Filed 2-26-54  
Aimee J. Rensick  
Clerk

GUY E. BROOKS,	)	
	)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
ORLOW P. BROOKS, as Executor	)	AT LAW
of the Estate of Emma J.	)	
Brooks, Deceased,	)	
	)	
Defendant.	)	

# DEMURRER

Now comes the defendant and demurs to the complaint filed in this cause by the plaintiff, and as grounds therefor assigns, separately and severally, the following:

1. It does not state a cause of action.
2. No facts are alleged to show that this Court has original jurisdiction of this suit.
3. No facts are alleged to show that the plaintiff filed a claim against the Estate of Emma J. Brooks, Deceased, within six months from the issuance of Letters Testamentary to the Executor named in the Last Will and Testament of the said decedent.
4. It does not allege the time within which the alleged agreement was to be performed.
5. It does not allege that the alleged agreement was to be performed within one year from the making thereof.
6. It does not allege when the alleged oral agreement was made.
7. The terms and provisions of the alleged oral agreement are not set out in the complaint.
8. No facts are alleged to show a valid oral agreement between the plaintiff and Emma J. Brooks, Deceased.
9. It does not allege when the said Emma J. Brooks failed to perform the alleged agreement.
10. It does not allege how the said Emma J. Brooks failed to perform the alleged agreement.



11. It does not allege in what respect the said Emma J. Brooks failed to perform the alleged agreement.

12. No facts are alleged to show what Emma J. Brooks agreed to pay Guy E. Brooks under the terms of the said alleged agreement.

13. No facts are alleged to show the period of time that the alleged agreement was to be in effect.

14. No facts are alleged to show the services which Guy E. Brooks was to perform for or render to Emma J. Brooks under the terms of the alleged oral agreement.

15. No facts are alleged to show what Emma J. Brooks agreed to pay Guy E. Brooks for services to be rendered by him under the alleged agreement.

J. T. Blackburn  
Attorney for defendant.

RECORDED

DEMURRER

GUY E. BROOKS,

Plaintiff,

VS.

ORLOW P. BROOKS, as Executor of  
the Estate of Emma J. Brooks,  
Deceased,

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

FILED

SEP 3 1953

ALICE J. DUCK, Clerk

J. B. BLACKBURN

ATTORNEY AT LAW

BAY MINETTE, ALABAMA

*Refiled*

*9-16-53*

*Case French  
10/10*

9-18-53

Memorandum to  
replication overruled

Guy E. Brooks,  
Plaintiff,

- vs -

Orlando P. Brooks,  
as Executor, etc.  
Defendant

In the Circuit Court

of Baltimore County,  
Allegany  
at Law

### Memorandum to Replication

Comes the Defendant in the above styled cause and in answer to the Plaintiff's Replication to the Defendant's Answer-Lexington filed in the said cause and in furtherance thereof assigns separately and severally the following facts:

1- The Replication does not present a defense to the answer.

2- The Replication does not constitute a defense to the answer and raises an immaterial issue -

J. B. Blackman  
Attorney for Defendant

Filed Sept. 18. 1955  
W. H. Johnson  
Special Judge -

9

1. The court charges the jury that if you believe the evidence in this case, your verdict should be for the defendant.

2. The court charges the jury that if you believe the evidence in this case, you cannot find for the plaintiff or claimant, Guy E. Brooks, and your verdict should be for the defendant, thereby disallowing the claim in its entirety.

3. The court charges the jury that a proceeding or action of this kind is not intended to lead to a personal judgment, but is only for the purpose of declaring the status of the claim of Guy E. Brooks, so that it can be disallowed or paid on settlement of the Estate of Emma J. Brooks, Deceased.

4. The court charges the jury that an action or proceeding of this kind is in the nature of a declaratory judgment to determine the validity of the claim filed by Guy E. Brooks against the Estate of Emma J. Brooks, Deceased.

new page 11

GUY E. BROOKS,

I

IN THE

Plaintiff,

CIRCUIT COURT OF BALDWIN

-VS-

I

COUNTY, ALABAMA.

ORLOW P. BROOKS, as Executor  
of the Estate of EMMA J. BROOKS,  
Deceased,

AT LAW. NO. 1992

Defendant,

I

DECREE

This day in open court came the parties with their attorneys and this cause having been regularly set for trial for this day, and this cause coming on to be heard on issue being joined between the Plaintiff and the Defendant, thereupon, in open court on this day came a jury of good and lawful men, to-wit: Clarence Harrison and eleven others, who, having been first duly empanelled and sworn, according to law, and who, having heard the evidence, in open court thereupon, the Plaintiff takes a non-suit, with a bill of exceptions, on account of the adverse rulings of the court on the evidence in this cause.

1953-10-01  
H. E. Harrison  
Clerk

It is, therefore, ordered and adjudged by the Court that the Defendant go hence without day and have and recover of the Plaintiff all costs in this cause created, for the recovery of which, let execution issue.

Done this the 18<sup>th</sup> day of September, 1953.

J. A. Harrison  
JUDGE







STATE OF ALABAMA )

BALDWIN COUNTY )

KNOW ALL MEN BY THESE PRESENTS, That we Guy E. Brooks of Baldwin County, Alabama, and The Mobile Bonding Company of Mobile, Alabama, are held and firmly bound unto W.R. Stuart, Judge of the Probate Court, in and for the County of Baldwin and his Successors in office, in the sum of the costs of Court hereinafter described, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated the 1st day of May in the year of our Lord, nineteen hundred and fifty-three.

The conditions of the above obligation are such, That whereas, the above bound Guy E. Brooks, has made an appeal from the judgment of this Court in the matter of his claim against the Estate of Emma J. Brooks, Deceased, said judgment being rendered on April 1, 1953, and said Appeal being made to the Circuit Court of Baldwin County, Alabama.

Now if the said Guy E. Brooks shall well and truly pay all the costs of court which may be charged to him in said proceedings, then the above obligation to be void, otherwise to remain in full force.

Taken and approved 9<sup>TH</sup> day  
of May A.D., 1953

W. R. Stuart

Guy E. Brooks (SEAL)

Mobile Bonding Co (SEAL)

W. R. Stuart (SEAL)

\_\_\_\_ (SEAL)

STATE OF ALABAMA, BALDWIN COUNTY

Filed Spaid May 1, 1953 M

Recorded \_\_\_\_\_ book \_\_\_\_\_ page \_\_\_\_\_

W. R. Stuart  
Judge of Probate

ND

70.1992-

RECORDED

FILED  
MAY 11 1953  
ALICE J. DUCK, Clerk

Midlothian, Illinois  
November 23, 1952

Mr. Ramsey Stuart  
Judge of Probate  
Bay Minette, Ala.

Dear Judge Stuart:

Will you please be kind enough to  
mail to me two copies, Certified, of the will  
of Emma J. Brooks.

If there are any charges for this  
please let me know. Thank you.

Sincerely,

*Orlow P. Brooks.*

THE STATE OF ALABAMA, }  
Baldwin County

PROBATE COURT

May 19 1952.

In the matter of the Estate of Emma J. Brooks Deceased.

Present, Hon. W. R. Stuart, Judge of Probate.

Before me, W. R. Stuart, Judge of Probate, in

and for said county, personally appeared in open court George Holk

who, having been, by me, first duly sworn and examined, did depose and say, on oath, that he is a  
subscribing witness to the instrument of writing now shown to him

and which purports to be the last will and testament of Emma J. Brooks

deceased, late an inhabitant of this county, that said

Emma J. Brooks

signed and executed said instrument on the day the same bears date, and declared the same to be her

last will and testament, and that affiant set his signature thereto on the day the same bears date

as a subscribing witness to the same, in the presence of said Emma J. Brooks

and that such other witness subscribed her name as a witness in his presence and in

the presence of said Emma J. Brooks

That said Emma J. Brooks

was of sound mind and disposing memory, and in the opinion of the deponent fully capable of making

her will at the time the same was so made as aforesaid. Affiant further states that said

Emma J. Brooks

was on the day of the said date of said will of the full age of twenty-one years and upwards.

George Holk (L. S.)

(L. S.)

Sworn to and subscribed before me this 19 day of May 1952.

W R Stuart  
Judge of Probate.

two trips -  
35 miles twice

Recorded in Will (Bend)  
J. Page 29

MR. Stewart  
Judge of Probate  
K.

No. \_\_\_\_\_

Box

524

The State of Alabama,  
BALDWIN COUNTY

PROBATE COURT

In the Matter of the Application of

To Probate the Will of

Deceased

NOTICE TO WITNESSES TO  
PROBATE WILLS

Issued \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

To \_\_\_\_\_

Executed April, 2. 1952

By Serving copy on

George Helk.

Mrs Eva J. Walker Helk

Sheriff

Taylor Wilkins

By

Edleigh Steadham

STATE OF ALABAMA, BALDWIN COUNTY

Filed By Sheriff April 3, 1952

Booked \_\_\_\_\_ back \_\_\_\_\_

W. G. Stunt

6

**The State of Alabama, Baldwin County.****PROBATE COURT**

TO ANY SHERIFF OF THE STATE OF ALABAMA—GREETING:

You are hereby commanded to summon George Holk and Eva J. Walker Holk  
both of Foley, Alabama

to appear in and before the Probate Court of said County, on ~~the 22nd~~ the day of April  
1952, to give evidence in a certain matter now pending in said Court, wherein

Orlow P. Brooks

has filed for Probate an instrument of writing purporting to be the last will and testament of

Emma J. Brooks deceased.

And this you shall in nowise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ at the office of the Judge of said Court.

Witness, W. R. Stuart Judge of said Court at

office, this 29th day of March, A. D. 1952.

W R Stuart

Judge of Probate

Bay Minette, Ala.,

April 22, 1952

THIS IS TO CERTIFY That Geo. Holt  
of Foley, Ala. has this day proven attendance as witness  
in the matter of the Will of Emma J. Brooks

for which he is due the sum of \$ 3.50 mileage

and in addition the sum of \$ 1.50 per day

aggregating the sum of \$ 5.00

W. R. Stuart  
Judge of Probate

By Lavayn Hallinger, Probate Clerk

Bay Minette, Ala.,

May 19, 1952

THIS IS TO CERTIFY That Geo. Holt  
of Foley, Ala. has this day proven attendance as witness  
in the matter of the Will of Emma J. Brooks

for which he is due the sum of \$ 3.50 mileage

and in addition the sum of \$ 1.50 per day

aggregating the sum of \$ 5.00

W. R. Stuart  
Judge of Probate

By Lavayn Hallinger, Probate Clerk



Bay Minette, Ala.,

April 22, 1952

THIS IS TO CERTIFY That Eva J. Walker Halk  
of Foley, Ala. has this day proven attendance as witness  
in the matter of the Will of Emma J. Brooks

for which he is due the sum of \$ 3.50 mileage

and in addition the sum of \$ 1.50 per day

aggregating the sum of \$ 5.00

W. R. Stewart  
Judge of Probate

By Lavanghan Hollinger, Probate Clerk

Bay Minette, Ala.,

May 19, 1952

THIS IS TO CERTIFY That Eva J. Walker Halk  
of Foley, Ala. has this day proven attendance as witness  
in the matter of the Will of Emma J. Brooks

for which he is due the sum of \$ 3.50 mileage

and in addition the sum of \$ 1.50 per day

aggregating the sum of \$ 5.00

W. R. Stewart  
Judge of Probate

By Lavanghan Hollinger, Probate Clerk

ALABAMA'S BEST COUNTY'S-

BAY MINETTE, ALABAMA

the **BALDWIN**

*Times*

BEST NEWSPAPER

NOTICE OF PUBLICATION  
TO PROBATE WILL

STATE OF ALABAMA, BALDWIN COUNTY  
Probate Court For Said County  
March Term

This 29th day of March, 1952

To Earl William Brooks, Laurel Texas,  
and Mrs. Myrtle Brooks Isaacson, Middle-  
field, Connecticut

You will hereby take notice, that on  
this day came Orlow P. Brooks and pro-  
duced to the Court a paper writing, pur-  
porting to be the last will and testament  
of Emma J. Brooks, deceased, and moves  
the Court to admit the said will to Pro-  
bate and Record.

You are notified to be and appear be-  
fore me, at my office in the Court House  
of said County at Bay Minette, Alabama,  
on the 22nd day of April, 1952 when  
the motion will be considered, and show,  
if anything you have to allege, why said  
paper writing should not be admitted to  
Probate and Record, as the true last  
will and testament of said decedent  
Emma J. Brooks.

W. R. Stuart  
Judge of Probate,  
Baldwin County, Ala.

11-3tc

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA.  
BALDWIN COUNTY.

Jimmy Faulkner, being duly sworn, deposes and says  
that he is the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper pub-  
lished at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Est. Emma J. Brooks,  
Dec.

COST STATEMENT

165 WORDS @ 5 cents --- \$ 8 <sup>25</sup>

I hereby certify this is correct, due and unpaid (paid).

Jimmy Faulkner  
Publisher.

Was published in said newspaper for \_\_\_\_\_ consecutive weeks in the following issues:

Date of 1st publication April 3, 1952 Vol. 63 No. 11

Date of 2nd publication April 10, 1952 Vol. 63 No. 12

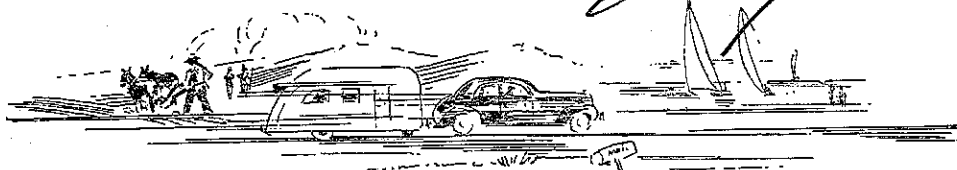
Date of 3rd publication April 17, 1952 Vol. 63 No. 13

Date of 4th publication \_\_\_\_\_, 195\_\_\_ Vol. \_\_\_\_\_ No. \_\_\_\_\_

Subscribed and sworn before the undersigned this 19 day of Apr, 1952

Dorothy Martin  
Notary Public, Baldwin County.

Jimmy Faulkner  
Publisher.



[illegible][illegible]

Bill 4/21/52  
24. B. B. B.  
Judge of Probate  
A.

December 3, 1952

Mr. O.P. Brooks  
114611 St. Louis Ave.,  
Midlothian, Illinois

Dear Sir:

Please find enclosed two certified copies of the Will of  
Emma J. Brooks, deceased.

Also enclosed is the Cost Bill for the same in the amount of  
\$3.50.

Very truly yours,

W.R. Stuart,  
Judge

By  
Harry M. D'Olive,  
Clerk of Probate

Encl: 2 cpy. Will  
Cost Bill (\$3.50)

The State of Alabama, BALDWIN County

## PROBATE COURT

In the Matter of the Application of Orlow P. Brooks

to Admit to Probate an Instrument Purporting to be the Last Will and Testament of

Emma J. Brooks, Deceased.This day came Orlow P. Brooks

and filed his petition in writing and under oath, praying for an order of this Court, admitting to probate an instrument purporting to be the last will and testament of

Emma J. Brooks, deceased.It is Ordered, Adjudged and Decreed by the Court that the 22nd day of April1952, be, and the same hereby is, fixed by the Court as the day and time for the hearing on the said petition.

It is Further Ordered, Adjudged and Decreed by the Court that notice be issued and served upon

the witnesses and the next of kin of said deceased, as provided by law

~~The widow and next of kin~~, of the filing of the said application and of the day and time fixed by the Court for the hearing thereon.~~It is Further Ordered, Adjudged and Decreed by the Court that~~~~, a practicing Attorney at Law, be, and he hereby is, appointed by~~~~the Court as Guardian Ad Litem to represent and defend the interest of~~~~The minors interested in the said proceedings, on the said hearing~~Witness my hand this the 29th day of March, 1952.
  
 Judge of Probate.

**The State of Alabama,**

County.

**PROBATE COURT**

In the Matter of Estate of

**Order Fixing Day for Hearing on Probate of Will and  
Appointment of Guardian Ad Litem**

Filed \_\_\_\_\_, 19\_\_\_\_

Judge of Probate.

Recorded in

*Mobile Probate Court* Record

Vol. *N* Page *569*

*W.B. Stewart*  
Judge of Probate.

BROOKS, EMMA J.,  
Deceased

ESTATE OF.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

IN THE MATTER OF THE FINAL SETTLEMENT OF THE ABOVE NAMED  
ESTATE.

It appearing to the Court that Orlow P. Brooks, Executor of the Estate of Emma J. Brooks, deceased, was ordered by a Decree of this Court, made and entered on the 3 day of January, 1953, to file his accounts, vouchers, and evidences for a final settlement in the said Estate;

And it appearing to the Court that the said Orlow P. Brooks, Executor, did file in this Court on to-wit: February 10, 1953, a contest of a claim heretofore filed against the said Estate by Guy E. Brooks; and that the hearing on the contest of the said Claim was continued from time to time until the 1st day of April, 1953, at which time the said hearing was held and <sup>was denied</sup> the said claim/by a Decree of this Court made and entered on to-wit: April 1, 1953;

And it appearing to the Court that the Executor desires a continuance in order to prepare his accounts, vouchers, and evidences for a final settlement;

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that this cause be, and it hereby is continued until the 5th day of May, 1953, on the hour of 10 A.M.

Witness my hand this the 1st day of April, 1953.



Judge of Probate.

STATE OF ALABAMA, BALDWIN COUNTY

Recorded Minute book "0" page 170  
W. R. Stuart  
Judge of Probate NS

Continuance #4



April 2, 1953

James E. Moore, Attorney  
608 Van Antwerp Building  
Mobile 12, Alabama

Re: Est. Emma J. Brooks, dec'd.

Dear Sir:

Please find enclosed Cost Bill in the amount of \$10.50, which covers the Cost of the proceedings pertaining to the claim of Guy E. Brooks against the above named Estate.

Inasmuch as the Claimant did not recover any part of his claim, the costs are, therefore, taxed against the said Claimant.

Very truly yours,

W. R. Stuart,  
Judge

By  
Harry M. D'Olive,  
Clerk of Probate.

Encl: Cost Bill.

February 3, 1953

James E. Moore, Attorney  
608 Van Antwerp Building  
Mobile 12, Alabama

Re: Est. Emma J. Brooks, dec'd.

Dear Sir:

Please find enclosed copy of Order continuing hearing on the proceedings in the above named Estate.

It is my understanding that this was agreed on between you and Mr. J.B. Blackburn, Attorney for Orlow P. Brooks.

Very truly yours,

W. R. Stuart,  
Judge

By  
Harry M. D'Olive,  
Clerk of Probate.

Encl: Copy of Order.

IN THE MATTER OF THE ESTATE  
OF EMMA J. BROOKS, Deceased.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA.

NO. \_\_\_\_\_

Comes now Guy E. Brooks, the son of the said Emma J. Brooks, Deceased, and a named devisee in her WILL, and shows unto the Court that he did, on July 23, 1952, file a claim against the above estate in this Honorable Court in the amount of Thirty Thousand, five hundred (\$30,500.00) Dollars, which same has not been contested by the Executor and remains due and unpaid.

Petitioner further shows unto the Court that more than six months has expired since the granting of Letters Testamentary to Orlow P. Brooks, Executor of the said Estate, on May 19, 1952.

WHEREFORE, THE PREMISES CONSIDERED, your Petitioner moves the Court to order the said Executor to make a final accounting and settlement on the said estate, and a full and final settlement of the aforesaid claim of your Petitioner heretofore filed against the estate as above set out.

Respectfully submitted,

*James E. Moore*  
James E. Moore,  
Attorney for Petitioner

STATE OF ALABAMA, BALDWIN COUNTY

Filed *Dec 20, 1952* M

Recorded *Probate* book *8* page *75*

*W. R. Stuart*  
Judge of Probate

*W.R.*

W. J. ... ..  
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Petition

May 20, 1952.

Hon. H. M. Hall  
Attorney at Law  
Bay Minette, Alabama

Dear Sir:

Enclosed please find two certified copies of the Letter Testamentary in the matter of the will of Emman J. Brooks

I am assuming you will publish the notice of grant of said letters.

Also I am assuming you will publish the notice of grant of letters of administration in the matter of the Estate of William Tom Cowart.

Yours very truly,

W. R. Stuart,  
Judge of Probate

By:

Lavaughn Hollinger,  
Probate Clerk

# Probate Office

Baldwin County  
W. R. STUART, Judge  
Bay Minette, Alabama

May 16, 1952.

Mr. George Holk  
Foley, Alabama

Dear Sir:

Would you and Mrs. Eva J. Walker Holk come in at your earliest convenience and sign the testimony in the matter of the Will of Emma J. Brooks.

Yours very truly,

*W. R. Stuart*

W. R. Stuart,  
Judge of Probate

By:

*Lavaughn Hollinger*

Lavaughn Hollinger,  
Probate Clerk

May 16, 1952.

Mr. George Holk  
Foley, Alabama

Dear Sir:

Would you and Mrs. Eva J. Walker Holk come in at your earliest convenience and sign the testimony in the matter of the Will of Emma J. Brooks.

Yours very truly,

W. R. Stuart,  
Judge of Probate

By:

Lavaughn Hollinger,  
Probate Clerk

JAMES E. MOORE  
ATTORNEY AT LAW  
608 VAN ANTWERP BUILDING  
MOBILE 12, ALABAMA  
TELEPHONE 3-9526

August 21, 1952

Clerk, Probate Court  
Bay Minette, Alabama

Dear Sir:

Could you please inform me the status of the estate of Emma J. Brooks, deceased, against which we have filed a claim in behalf of Guy E. Brooks, a son of the deceased.

Our claim was filed on July 23 and as yet we have no notice of any contest or hearing thereon, and am wondering whether any action has been taken with respect thereto.

Thanking you, I remain

Very truly yours,

*James E. Moore*  
James E. Moore

JEM/eg

*Insured  
8-23-52*



August 23, 1952

James E. Moore  
608 Van Antwerp Bldg.  
Mobile 12, Alabama

Dear Mr. Moore:

In reply to your letter of August 21st, you are hereby advised that Letters Testamentary were granted to Orlow P. Brooks on the 19th day of May 1952.

Your claim was filed in this office July 23, and recorded in Claims Book 2, Page 10.

Further action in this matter will be in accordance with Title 61, Section 210 and 294, Code of Alabama 1940.

Very truly yours,

W. R. Stuart  
Judge of Probate

By  
Harry M. D'Olive  
Clerk of Probate

THE STATE OF ALABAMA, }  
Baldwin County

PROBATE COURT

May 19

19 52

In the matter of the Estate of Emma J. Brooks Deceased.

Present, Hon. W. R. Stuart Judge of Probate.

Before me, W. R. Stuart Judge of Probate, in  
and for said county, personally appeared in open court Eva J. Walker Holk

who, having been, by me, first duly sworn and examined, did depose and say, on oath, that She is a  
subscribing witness to the instrument of writing now shown to her  
and which purports to be the last will and testament of \_\_\_\_\_

Emma J. Brooks

deceased, late an inhabitant of this county, that said Emma J. Brooks

signed and executed said instrument on the day the same bears date, and declared the same to be her  
last will and testament, and that affiant set her signature thereto on the day the same bears date  
as a subscribing witness to the same, in the presence of said Emma J. Brooks

and that such other witness subscribed his name as a witness in her presence and in  
the presence of said Emma J. Brooks

That said Emma J. Brooks  
was of sound mind and disposing memory, and in the opinion of the deponent fully capable of making  
her will at the time the same was so made as aforesaid. Affiant further states that said

Emma J. Brooks

was on the day of the said date of said will of the full age of twenty-one years and upwards.

Eva J. Walker Holk (L. S.)

\_\_\_\_\_  
(L. S.)

Sworn to and subscribed before me this 19 day of May 19 52

W R Stuart

Judge of Probate.

Recorded in Will Record  
2. page 29

MR. Stuart  
Judge of Probate  
A.

TO HONORABLE W. R. STUART, JUDGE OF THE PROBATE COURT OF BALDWIN COUNTY,  
ALABAMA:

Your Petitioner, Orlow P. Brooks, respectfully represents and shows unto  
Your Honor as follows:

1.

That your Petitioner is over twenty-one years of age, and a resident  
of Midlothian, Illinois.

2.

That Emma J. Brooks, who was a bona fide resident of Baldwin County,  
Alabama, at the time of her death, departed this life on the 20th day of  
March, 1952, leaving a Last Will and Testament duly executed by her and  
witnesseth by George Holk and Eva J. Walker Holk both of Foley, Baldwin  
County, Alabama.

3.

That the heirs and next of kin of the decedent, Emma J. Brooks, all of  
whom are over twenty-one years of age and of sound mind are as follows:

Orlow P. Brooks, Midlothian, Illinois.  
Guy E. Brooks, Daphne, Alabama.

4.

That the said decedent in and by her Last Will and Testament named as  
devisees therein other than her two sons, her two grandchildren Earl William  
Brooks over twenty-one years of age and a resident of Laurel Texas, and Mrs.  
Myrtle Brooks Isaacson, over twenty-one years of age and a resident of  
Middlefield, Connecticut.

5.

That your Petitioner was named in said Last Will and Testament as  
Administrator thereof and exempted from making bond or any inventory or  
report of said estate.

WHEREFORE, the premises considered, your Petitioner prays that such  
orders and decrees may be made and entered as to effectuate a due probate  
and record of said Last Will and Testament which is herewith propounded for  
Probate and record and the issuance of Letters Testamentary to your Petitioner.

Orlow P. Brooks

Sworn to and subscribed before me on this the 25 day of March, 1952.

John Lee  
Notary Public, Baldwin County, Alabama

STATE OF ALABAMA, BALDWIN COUNTY

Filed March 29, 1953 M

Recorded Adair book 0 page 357

W. P. Stewart  
Judge of Probate

N.

LAST WILL AND TESTAMENT

of

EMMA J. BROOKS

THE STATE OF ALABAMA )  
BALDWIN COUNTY )

KNOW ALL MEN BY THESE PRESENTS that I, Emma J. Brooks, being of sound mind and disposing memory do hereby make and constitute this my last will and testament.

First - I leave and bequeath unto my son, Guy E. Brooks the sum of \$5.00 (five dollars.)

Second - I leave and bequeath unto my son, Orlow P. Brooks and my two grandchildren Earl William Brooks and Mrs. Myrtle Brooks Isaacson all of the other property both real and personal of which I may die possessed. The property shall be divided in two equal shares, one share to go to my son Orlow P. Brooks and the other share to my grandchildren, before named. It is understood that I desire my son, Guy E. Brooks be able to live on my farm near Daphne, Alabama as long as he maintains a home there. In the event that my son, Orlow P. Brooks should want to live on the farm too he may do so.

Third - I hereby name my son, Orlow P. Brooks, to be the administrator of the Estate and I direct that he shall not be required to furnish any bond as such administrator or to make any inventory or report of said estate.

IN WITNESS WHEREOF I have hereunto set my hand this the 8th day of March, 1952.

Emma J. Brooks

WE THE UNDERSIGNED SUBSCRIBED WITNESSES to the signature of the above testatrix do hereby certify that she signed the same in our presence certifying that it was her last will and testament; that at the request of said testatrix we signed the same as such in the presence of the testatrix and of each other.

George J. Folk  
Foley, Alabama

Eva J. Walker Folk  
Foley, Alabama

THE STATE OF ALABAMA )  
BALDWIN COUNTY )

THE STATE OF ALABAMA  
BALDWIN COUNTY

In the matter of the application of Orlow P. Brooks to admit to probate an instrument purporting to be the last will and testament of Emma J. Brooks, Deceased.

I, W. R. Stuart, Judge of Probate in and for said County and State, do hereby certify that the within will has been duly proven and recorded; that the date of proof and probate of the said will is the 19 day of May, 1952, and that the said will, together with the proof, is recorded in Book of Wills F, Page 28 29 ~~28~~.

W. R. Stuart, Judge of Probate  
By: Lavagnin Hallinger, Probate Clerk

Will

570 5

2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 26

1951 25 04 10 10

STATE OF ALABAMA, BALDWIN COUNTY

Filed March 29, 1953

Recorded Will Read book F page 28

22. P. Myers

Office of the  
Director of the  
Department of  
Education

THE STATE OF ALABAMA, }  
BALDWIN COUNTY

COURT OF PROBATE

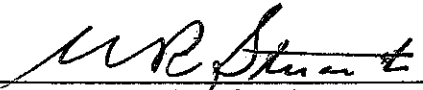
LETTERS TESTAMENTARY

The Will of Emma J. Brooks having been duly admitted

to record in said County, Letters Testamentary are hereby granted to Orlow P. Brooks

\_\_\_\_\_ the executOR named in said Will, who has complied with  
the requisitions of the law, and is authorized to take upon him self the execution of such will.

Witness my hand, and dated this 19 day of May A. D., 1952.

  
\_\_\_\_\_  
Judge of Probate.



No. \_\_\_\_\_

The State of Alabama,  
Baldwin County

Probate Court

ESTATE OF

Deceased.

Execut\_\_\_\_\_

Letters Testamentary

*Recorded in Probate  
Record Book p.  
Page 358  
W.R. Stuart  
Judge of Probate  
H-*

The State of Alabama, BALDWIN County

To Guy E. Brooks, Daphne, Alabama

You will please take notice that on the 29th day of March 19 52

a certain paper in writing, purporting to be the last Will and Testament of Emma J. Brooks

\_\_\_\_\_ was filed in my office for Probate by  
Orlow P. Brooks and that the 22nd day of

April 19 52, was appointed a day for hearing thereof, at

which time you can appear and contest the same, if you see proper.

Given under my hand, this 29th day of March 19 52.

MR. Stuart  
Judge of Probate.

Received in office this \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_

Sheriff.

Executed by leaving copy \_\_\_\_\_ with the  
within named part April 3. 1952

Guy F. Brooks

Taylor Wilkins

By

Sheriff.

Edleigh Steadham

*Returned Executed  
4/5/52*

The State of Alabama,

County.

## PROBATE COURT

In the Matter of the Application of

To Probate Will of

Deceased

Notice of Day Set for Hearing  
Probate of Will

Issued this \_\_\_\_\_ day of

19\_\_\_\_

STATE OF ALABAMA,

PROBATE COURT FOR SAID COUNTY

March Term,  
BALDWIN County this 29th day of March, 1952.

To Earl William Brooks, Laurel Texas, and Mrs. Myrtle Brooks

Isaacson, Middlefield, Connecticut

You will hereby take notice, that on this day came Orlow P. Brooks

and produced to the Court a paper writing, purporting to be the last will and testament of

Emma J. Brooks, deceased, and moves the Court to

admit the said will to Probate and Record.

You are notified to be and appear before me, at my office in the Court House of said County at

Bay Minette, Alabama, on the 22nd day of April, 1952

when the motion will be considered, and show, if anything you have to allege, why said paper writing should

not be admitted to Probate and Record, as the true last will and testament of said decedent

Emma J. Brooks

*W.R. Stuart*  
Judge of Probate, Baldwin County, Ala.

To The Baldwin Times, Publisher:

Please publish the above notice three successive weeks in the Baldwin Times

*W.R. Stuart*  
Judge of Probate.

No. .... Box .....

STATE OF ALABAMA,

.....COUNTY

**PROBATE COURT**

IN THE MATTER OF THE APPLICATION OF

To Probate the Will of

.....Deceased.

**Notice of Publication to Probate Wills**

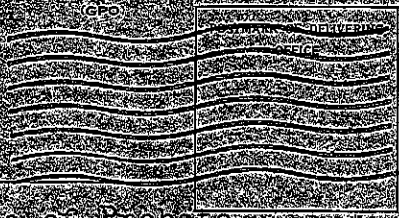
Issued ..... day of ....., 19.....

To .....

Post Office Department  
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE \$1500

(GPO)



Return to W. B. Stuart, Judge of Probate

Street and Number  
or Post Office Box P. O. Box 150

REGISTERED ARTICLE

No. 580 Post Office Bay Minette, Alabama

INSURED PARCEL

State Alabama

WCS 2-22-53

# RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1 Orlando P Brooks

Signature or name of addressee  
Deliver to Addressee Only

2 Signature of addressee's agent. Agent should enter addressee's name on line ONE above.

Date of delivery JAN 14 1953 1953

RECEIPT FOR REGISTERED ARTICLE No. 580

Fee paid 30 1-12, 19 53

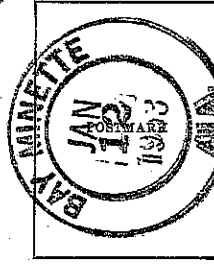
Class postage paid 1 Return receipt fee 07  
Declared value, \$ none Special delivery fee 20

Surcharge paid, \$ \_\_\_\_\_ Restricted delivery 20  
(Accepting employee will place initials in proper space) in person \_\_\_\_\_  
or order \_\_\_\_\_  
Fee paid \_\_\_\_\_

From Probate Judge  
(Sender) Bm

Addressed to Charles P. Brooks  
(Street and number) (Post office and State)

14611 St. Louis Ave  
(Street and number) (Post office and State)



Postmaster, per [Signature]



STATE OF ALABAMA  
BALDWIN COUNTY

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

TO ORLOW P. BROOKS, 14611 ST. LOUIS AVENUE, MIDLOTHIAN, ILLINOIS;  
EXECUTOR OF THE ESTATE OF EMMA J. BROOKS, DECEASED:

Comes now Guy E. Brooks, a named devisee in the Will of Emma J. Brooks, deceased, and shows unto this Court that he did on to-wit, July 23, 1952, file a claim against the Estate of Emma J. Brooks, deceased, in the amount of Thirty Thousand Five Hundred (\$30,500.00) Dollars, which has not been contested and remains due and unpaid;

And it appearing to the Court that more than six months has elapsed since the granting of Letters Testamentary on to-wit, May 19, 1952;

You are, therefore, ORDERED to file in this Court, on or before the 3 day of February, 1953, your accounts, vouchers, and evidences for a final settlement of your Executorship of the Estate of Emma J. Brooks, Deceased;

And this you shall in nowise omit, under the penalty prescribed by law.

Witness my hand and seal of said Court at my office in the City of Bay Minette, this the 3 day of January, 1953.



Judge of Probate.

STATE OF ALABAMA, BALDWIN COUNTY

Recorded Minute book 0 page 168  
W. R. Stuart  
Judge of Probate HD

Order

STATE OF ALABAMA  
BALDWIN COUNTY

IN THE PROBATE COURT

IN THE MATTER OF THE APPLICATION OF  
ORLOW P. BROOKS TO PROBATE AN INSTRUMENT IN WRITING PURPORTING TO BE  
THE LAST WILL AND TESTAMENT OF EMMA  
J. BROOKS, DECEASED, IN ALABAMA

This being the day heretofore appointed by the Court for hearing the application of Orlow P. Brooks, to admit to probate an instrument in writing purporting to be the Last Will and Testament of Emma J. Brooks, Deceased; and it appearing to the Court that the attorney representing one of the heirs and legatees in said will did not appear and said legatee has requested that the cause be continued, and the same being considered by the Court:

It is therefore ordered, adjudged and decreed by the Court that the aforesaid hearing be and it is hereby continued to the 15th day of May, 1952.

This the 22nd day of April, 1952.

  
W. R. Stuart, Judge of Probate

Bleed in Minute  
White and Book N.  
Page 519

Wm. H. H. H.  
Judge of Probate  
AT

STATE OF ALABAMA

IN THE PROBATE COURT

BALDWIN COUNTY

IN THE MATTER OF THE APPLICATION OF  
ORLOW P. BROOKS TO PROBATE AN INSTRUMENT  
IN WRITING PURPORTING TO BE THE LAST  
WILL AND TESTAMENT OF EMMAN J. BROOKS,  
DECEASED, IN ALABAMA.

This being the day heretofore appointed by the Court for hearing the application of Orlow P. Brooks, to admit to probate an instrument purporting to be the Last Will and Testament of Emma J. Brooks, Deceased, and it appearing to the Court that the witnesses did not appear on the day said hearing was set.

It is therefore ordered, adjudged and decreed by the Court that the aforesaid hearing be and it is hereby continued to the 19th day of May, 1952.

This the 15th day of May, 1952.

  
W. R. Stuart, Judge of Probate.

Records in Minutes of  
Peters and Brock,  
Page 569

W. R. Stewart  
Judge of Probate  
A.

The State of Alabama, BALDWIN County

PROBATE COURT

In the Matter of the Application of Orlow P. Brooks

to Admit to Probate an Instrument Purporting to be the Last Will and Testament of

Emma J. Brooks, Deceased.

This, the 19 day of May, 1952, being the day and time fixed by the Court for the hearing on the application of Orlow P. Brooks

to admit to probate and record an instrument purporting to be the last will and testament of

Emma J. Brooks, deceased, and notice having been issued and served as required by law upon the widow and next of kin, ~~and the Guardian ad litem having been appointed to represent and defend the interests of~~

~~minors interested in the said proceedings and the said Guardian ad litem having accepted the said appointment and denied the allegations contained in the said petition in writing and the Court having heard the evidence offered for and against the granting of the said application, and being satisfied from the said evidence~~

that the instrument purporting to be the last will and testament of the said Emma J. Brooks

, deceased, is the genuine legal last will and testament of the said Emma J. Brooks, deceased.

It is Ordered, Adjudged and Decreed by the Court that the said instrument, purporting to be the last will and testament of the said Emma J. Brooks, deceased, was duly and legally executed by her and is the genuine legal last will and testament of the said Emma J. Brooks, deceased, and that the said will be, and the same hereby is, admitted to record and probate.

It is Further Ordered, Adjudged and Decreed by the Court that the said will, together with the evidence and testimony of the subscribing witnesses, be recorded as provided by law. and Letters Testamentary issued to Orlow P. Brooks, Executor named in said will.

Dated this the 19 day of May, 1952

*M. R. Stewart*

Judge of Probate.

No. \_\_\_\_\_ Page \_\_\_\_\_

The State of Alabama,

COUNTY.

PROBATE COURT

In the matter of Estate of

Order Admitting Will to Probate  
and Record

Filed \_\_\_\_\_ 19\_\_

Judge of Probate.

Recorded in

*Minutes of Probate Court Record*

Vol. *N* page *569*

*W. H. Hester*  
Judge of Probate.



BROOKS, EMMA J.,  
Deceased,  
ESTATE OF.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

In the Matter of the Final Settlement of the above named Estate.

This day being the day regularly appointed by the Court for  
the Executor of the above named Estate to file his accounts,  
vouchers, and evidences for a final settlement of said Estate;

And it appearing to the Court that a continuance is desired;

It is, therefore, ORDERED, ADJUDGED AND DECREED that this  
cause be, and it hereby is, continued until February 18, 1953,  
at 10 o'clock A.M.

Witness my hand this the 3 day of February, 1953.



Judge of Probate.

STATE OF ALABAMA, BALDWIN COUNTY

Recorded Minute book "0" page 169  
W. R. Stuart  
Judge of Probate  
HD

Continuance

#1

BROOKS, EMMA J.,  
Deceased,  
ESTATE OF.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

In the matter of the Final Settlement of the above named  
Estate.

This day being the day regularly appointed by the Court  
for the Executor of the above named Estate to file his ac-  
counts, vouchers and evidences for a final settlement of  
said Estate;

And it appearing to the Court that a continuance is  
desired;

It is, therefore, ORDERED, ADJUDGED AND DECREED that  
this cause be, and it hereby is, continued until March 18,  
1953, at 10 O'clock A.M.

Witness my hand this the 18 day of February, 1953.



STATE OF ALABAMA, BALDWIN COUNTY

Judge of Probate.

Recorded Minute book "O" page 169  
W. R. Stuart  
Judge of Probate  
HS

Continuance #2

BROOKS, EMMA J.,  
Deceased,

ESTATE OF.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

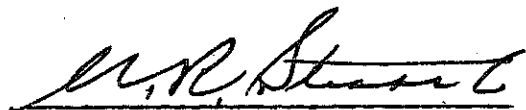
In the matter of the Final Settlement of the above named  
Estate.

This day being the day regularly appointed by the Court  
for the Executor of the above named Estate to file his ac-  
counts, vouchers and evidences for a final settlement of  
said Estate;

And it appearing to the Court that a continuance is  
desired;

It is, therefore, ORDERED, ADJUDGED AND DECREED that  
this cause be, and it hereby is continued until April 1,  
1953, at 10 o'clock A.M.

Witness my hand this the 18 day of March, 1953.



Judge of Probate.

STATE OF ALABAMA, BALDWIN COUNTY

Recorded Minute Book "O" page 169

W. R. Stuart  
Judge of Probate

HS

Continuance #3