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PILLANS, REAMS, TAPPAN, WOOD & ROBERTS

LAWYERS AND PROCTORS

VAN ANTWERP BUILDING

P. O. BOX 935

MOBILE 5, ALABAMA

PALMER PILLANS
W. DEWITT REAMS
JOHN H. TAPPAN
GEORGE F. WOOD
BONNERRAE H. ROBERTS
ALEXANDER F. LANKFORD

CABLE ADDRESS: PTAH

November 19, 1953

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

Re: Joe McPhillips, Plaintiff,
v. Marion B. Nellis, Defen-
dant. Our File 10,177.

Dear Mrs. Duck:

Please find enclosed herewith for filing, the origi-
nal and one carbon copy of demurrers and pleas on behalf of
the defendant in the above styled cause.

Respectfully yours,

PILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorneys for Defendant,

By

B. H. Roberts

BHR:hb
Encl.

JOE McPHILLIPS,

Plaintiff,

vs.

MARION B. NELLIS, also
known as MRS. FRANK E.
NELLIS,

Defendant.

I

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

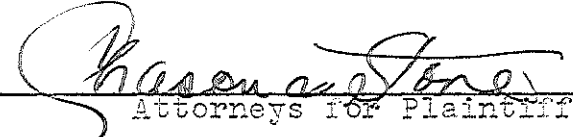
LAW SIDE.

Comes the Plaintiff in the above styled cause and amends
Count Four of his Complaint filed in said cause so that the same
shall read as follows:

COUNT FOUR:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as damages in this; that the Plaintiff is a licensed real estate broker in the State of Alabama his license number being 396 which said license was issued by the Alabama Real Estate Commission on October 1, 1952; that while the Plaintiff was such real estate broker he entered into an agreement with the Defendant on May 2, 1953, in and by the terms of which agreement the said Defendant granted to the Plaintiff the exclusive right to sell certain real property belonging to the Defendant in Baldwin County, Alabama, known as the Frank E. Nellis Home Place in Magnolia Springs, Alabama, for a consideration of Fifty Thousand Dollars (\$50,000.00), Twenty-nine per cent (29%) in cash and the balance in ten (10) years which property was listed exclusively with the Plaintiff until August 1, 1953, and the Defendant agreed that if the Plaintiff should find a purchaser for such property for that price that she would pay him five per cent (5%) of such amount as commission and the Plaintiff further avers that on July 27, 1953, he procured a purchaser for said property, namely, Dr. W. C. Holmes of Foley, Alabama, who was ready, able and willing to purchase said property and who, in writing, agreed to purchase such property according to the terms of the agreement hereinabove referred to and the said W. C. Holmes paid the Plaintiff the sum of One Thousand Dollars (\$1,000.00) in cash as a binder on the purchase of such property. The Plaintiff further avers that he, prior to August 1, 1953, informed the De-

fendant that he had procured such purchaser who was ready, able and willing to purchase said property in accordance with the terms of Plaintiff's agreement with the Defendant, namely, Dr. W. C. Holmes, of Foley, Alabama, and requested that she prepare the proper legal papers to consummate such transaction. That said Defendant failed and refused to consummate such sale and to carry out the terms of her contract and the provisions of her contract with the Plaintiff, and she has refused to pay the Plaintiff the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as his commission on such sale, all to the damage of the Plaintiff in the said sum of Two Thousand Five Hundred Dollars (\$2,500.00).


Attorneys for Plaintiff.

2111
RECORDED

AMENDED COMPLAINT

JOE McPHILLIPS,

Plaintiff,

vs.

MARTON B. NELLIS, also known
as MRS. FRANK E. NELLIS,

Defendant.

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

Filed the 23rd day of November,
1953.

Alice J. Duck
Clerk

JOE McPHILLIPS,	*	
Plaintiff,	*	IN THE CIRCUIT COURT OF
VS.	*	BALDWIN COUNTY, ALABAMA
MARION B. NELLIS, also	*	
known as Mrs. Frank E.	*	
Nellis,	*	LAW SIDE NO. 2111.
Defendant.	*	

Comes the said defendant and demurs to Count Three of the Complaint of the said plaintiff in the above styled cause and for grounds of demurrer assigns the following:

ONE.

The Count fails to aver that the purchaser procured by the plaintiff was ready, willing and able to buy and pay for the property which plaintiff avers he was offering for sale.

TWO.

For aught that appears in the said Count, the purchaser that the plaintiff avers he procured, was not ready, willing or able to purchase and pay for the property in the said Count mentioned.

And defendant demurs to Count Four of the said complaint, and for grounds of demurrer, assigns the same grounds heretofore assigned to Count Three and also the following ground:

The Count avers that the plaintiff sold the property mentioned in the complaint to one W. C. Holmes; and the Count affirmatively shows that plaintiff was without authority to sell the said property, but was employed to find a buyer ready, willing and able to purchase and pay for the said property.

And for plea and answer to Count One of the said plaintiff's complaint, defendant says that the material

allegations thereof are untrue.

And for plea and answer to Count Two of the said plaintiff's complaint, defendant says that the material allegations thereof are untrue.

PILLANS, REAMS, TAPPAN, WOOD & ROBERTS
Attorneys for Defendant

BY:



P. O. Box 935
Mobile 5, Alabama

Defendant demands a trial by
jury in this cause.

PILLANS, REAMS, TAPPAN, WOOD & ROBERTS

BY:



STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Marion B. Nellis, also known as Mrs. Frank E. Nellis, to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of Joe McPhillips.

Witness my hand this 20th day of October, 1953.

Reidy J. French
Clerk.

JOE McPHILLIPS,	I	
Plaintiff,	I	IN THE CIRCUIT COURT OF
vs.	I	BALDWIN COUNTY, ALABAMA
MARION B. NELLIS, also	I	LAW SIDE.
known as MRS. FRANK E.	I	
NELLIS,	I	
Defendant.	I	

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2,500.00) due from her by account on to-wit, July 27, 1953, which sum of money, together with interest thereon is due and unpaid.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2,500.00) due from her for work and labor done for the Defendant by the Plaintiff on to-wit, the 27th day of July 1953 at her request, which sum of money together with interest thereon is due and unpaid.

COUNT THREE:


The Plaintiff further claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2,500.00) damages for the breach of an agreement entered into on, to-wit, May 2, 1953, between the

Plaintiff and the Defendant in and by the terms of which agreement the Defendant employed the Plaintiff to procure for her a purchaser for certain land located in Baldwin County, Alabama, which was the property of the Defendant and which was known as the Frank E. Nellis Home Place in Magnolia Springs, Baldwin County, Alabama, and the Defendant agreed to pay the Plaintiff five per cent (5%) of the sales price of said lands as his commission and the Defendant agreed to sell such property for Fifty Thousand Dollars (\$50,000.00) with twenty-nine per cent (29%) to be paid in cash and the balance in ten (10) years and the Defendant further agreed that the Plaintiff should have the exclusive right to sell such property until August 1, 1953. The Plaintiff avers that in accordance with said contract he procured a purchaser for said property, namely, Dr. W. C. Holmes of Foley, Alabama, and that the said Dr. Holmes agreed in writing to pay the Defendant the sum of Fifty Thousand Dollars (\$50,000.00) for said property of which Fifteen Thousand Dollars (\$15,000.00) was to be paid in cash and the balance over a period of ten (10) years secured by a purchase money mortgage and with interest at six per cent (6%) and that the said W. C. Holmes delivered to the Plaintiff One Thousand Dollars (\$1,000.00) as a binder on the purchase of such property. The Plaintiff further avers that he immediately informed the Defendant that the said W. C. Holmes was ready, able and willing to purchase such property in accordance with the terms of her agreement with the Plaintiff and that the Defendant has failed and refused to execute a deed conveying such property or to comply with the terms of her agreement with the Plaintiff, hence this suit.

COUNT FOUR:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as damages in this; that the Plaintiff is a licensed real estate broker in the State of Alabama his license number being 396 which said license was issued by the Alabama Real Estate Commission on October 1, 1952; that while the Plaintiff was such real estate broker he entered into an agreement with the Defendant on May 2, 1953; in and by the terms of which agreement the said Defendant granted to the Plaintiff the exclusive right to sell

certain real property belonging to the Defendant in Baldwin County, Alabama, known as the Frank E. Nellis Home Place in Magnolia Springs, Alabama, for a consideration of Fifty Thousand Dollars (\$50,000.00), Twenty-nine per cent (29%) in cash and the balance in ten (10) years which property was listed exclusively with the Plaintiff until August 1, 1953, and the Defendant agreed that if the Plaintiff should sell such property for that price that she would pay him five per cent (5%) of such amount as commission and the Plaintiff further avers that on July 27, 1953, he procured a purchaser for said property, namely, Dr. W. C. Holmes of Foley, Alabama, who, in writing, agreed to purchase such property according to the terms of the agreement hereinabove referred to and the said W. C. Holmes paid the Plaintiff the sum of One Thousand Dollars (\$1,000.00) in cash as a binder on the purchase of such property. The Plaintiff further avers that he, prior to August 1, 1953, informed the Defendant that he had sold such property to W. C. Holmes and requested that she prepare the proper legal papers to consummate such transaction. That said Defendant failed and refused to consummate such sale and to carry out the terms of her contract and the provisions of her contract with the Plaintiff, and she has refused to pay the Plaintiff the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as his commission on such sale, all to the damage of the Plaintiff in the said sum of Two Thousand Five Hundred Dollars (\$2,500.00).


Attorneys for Plaintiff.

this 20th day of Oct, 1953
TAYLOR WILKINS, Sheriff

Magnolia Springs
RECORDED

10-27 1953
A true copy of within Summons and
Complaint as

*Marion B. Nellis also
known as Mrs. Frank E.
Nellis*

*Taylor Wilkins
Edley Steadman*
Sheriff Deputy Sheriff

SUMMONS AND COMPLAINT

JOE McPHILLIPS,
Plaintiff,

vs.

MARION B. NELLIS, also known as
MRS. FRANK E. NELLIS,
Defendant.

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

Filed this 20th day of October,
1953.

Alice J. Hensley
Clerk.

LAW OFFICES
CHASON & STONE
BAY MINETTE, ALABAMA