

SEA RANCH PROPERTIES, INC.
A Corporation,

Plaintiff,

VS.

HOLYOKE MUTUAL FIRE INSURANCE
COMPANY OF SALEM, A Corpora-
tion,

Defendant.

* IN THE CIRCUIT COURT OF
* BALDWIN COUNTY, ALABAMA
*
* AT LAW
*
* CASE NO. 9294
*

M O T I O N T O R E C O N S I D E R

Comes now the Defendant in the above styled cause, by and through its attorneys, appearing specially, and not generally, and for the sole purpose of filing this motion requesting the Court to reconsider its Order denying Defendant's Plea In Abatement, and as grounds for said motion for reconsideration, the Defendant represents and shows unto the Court as follows:

That the Defendant's attorney had no notice and was not present in Court when the above case was called for the purpose of argument upon the Plea In Abatement; that the Plaintiff has filed no Demurrer, Answer or Plea to the Plea In Abatement and has not otherwise joined issue on said Plea In Abatement; and that the Plea In Abatement is well taken and the Defendant respectfully requests the Court to reconsider its prior ruling.

LYONS, PIPES AND COOK
Attorneys for the Defendant.

BY: James B. Kierce, Jr.
JAMES B. KIERCE, JR.

CERTIFICATE OF SERVICE

I do hereby certify that I have on this _____ day of _____, 1971, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.

FILED

MAY 10 1971

EUNICE B. BLACKMON CIRCUIT CLERK

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

JOSEPH H. LYONS (1900-1957)

36601

AREA CODE 205
TEL. 432-4483
P.O. DRAWER 2525

SAM W. PIPES

WALTER M. COOK

GORDON B. KAHN

G. SAGE LYONS

AUGUSTINE MEAHER, III

JAMES B. KIERCE, JR.

WESLEY PIPES

NORTON W. BROOKER, JR.

July 2, 1970

Mrs. Alice J. Duck
Clerk, Circuit Court of Baldwin County
Baldwin County Courthouse
BayMinette, Alabama

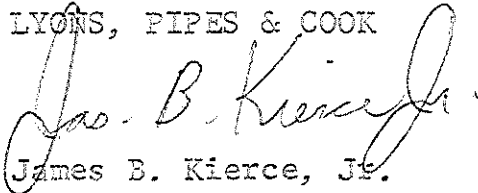
Re: Sea Ranch Properties, Inc. vs
Holyoke Mutual Fire Insurance Company

Dear Mrs. Duck:

Our firm is going to represent the defendant in the above case. We enclose the original of a Plea in Abatement along with a Xerox copy. Please file the original, stamp the Xerox copy "filed" and return the copy to me in the enclosed self-addressed and stamped envelope.

Yours truly,

LYONS, PIPES & COOK



James B. Kierce, Jr.

JBK/ds

Enclosures

SEA RANCH PROPERTIES, INC.)	IN THE CIRCUIT COURT OF
A Corporation,)	BALDWIN COUNTY, ALABAMA
Plaintiff,)	
VS.)	AT LAW
HOLYOKE MUTUAL FIRE INSURANCE)	
COMPANY IN SALEM, a corporation))	
Defendant.)	CASE NO. <u>9294</u>

PLEA IN ABATEMENT

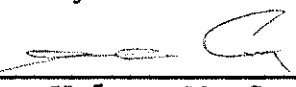
Comes now the defendant in the above styled cause, by and through its attorneys, appearing specially (and not generally) for the sole purpose of filing this Plea in Abatement and for no other cause whatsoever, and for Plea in Abatement says as follows, separately and severally:


1. For that the plaintiff has not filed a PROOF OF LOSS pursuant to the terms of the Contract of insurance sued upon.

2. For that the Contract of insurance sued upon provides that "* * * within 60 days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a PROOF OF LOSS, signed and sworn to by the Insured * * *", and the defendant avers that the plaintiff has not complied therewith.

WHEREFORE, this defendant avers that the instant suit was brought prematurely and prays that this action against it be abated and that it be allowed to go hence with its reasonable costs in its behalf expended.

LYONS, PIPES AND COOK
Attorneys for the Defendant.

By: 
Walter M. Cook

By: 
James B. Kierce, Jr.

FILED

JUL 6 1970

ALICE J. DUCK

CLERK
REGISTER

STATE OF ALABAMA

COUNTY OF MOBILE

I, Sharon E. Elman, a Notary

Public in said State and County, do hereby certify that the undersigned, James B. Kierce, Jr., personally appeared before me and who being duly sworn deposes and says that he is one of the attorneys for the defendant, Holyoke Mutual Fire Insurance Company In Salem, a corporation, and that he is informed and believes, upon such information and belief charges that the facts and matters stated in the foregoing Plea in Abatement are true and correct.

James B. Kierce Jr.
JAMES B. KIERCE, JR.

Subscribed and sworn to before me this 2ND day of

July, 1970.

Sharon E. Elman
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 2nd day of July, 1970, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.

James B. Kierce Jr.

FILED

JUL 6 1970

ALICE J. DUCK

CLERK
REGISTER

9294

STATE OF ALABAMA
DEPARTMENT OF INSURANCE

I, the undersigned as Superintendent of Insurance for the State of Alabama,
hereby certify that on the 3rd day of June, 1970, I
sent by registered mail in an envelope as follows:

Holyoke Mutual Fire Insurance Company in Salem
39 Norman Street
Salem, Massachusetts 01971

REGISTERED MAIL
RETURN RECEIPT REQUESTED

bearing sufficient prepaid postage, a copy of a summons and complaint served upon
me by the Sheriff of Montgomery County, Alabama, in a cause styled as follows:

Sea Ranch Properties, Inc., Plaintiff

in the Circuit Court of Baldwin County

VERSUS

(Name of Court)

Holyoke Mutual Fire Insurance Company in, Defendant
Salem

And that on the 11th day of June, 1970, I received
the return card showing receipt by the designated addressee of said envelope on
the 8th day of June, 1970.

Witness my hand and official seal this the 11th day of June,
1970.

R. Frank Unzueta

SUPERINTENDENT OF INSURANCE

FILED

JUN 13 1970

ALICE J. DUCK CLERK
REGISTER

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

May 29, 1970

Mrs. Alice J. Duck
Clerk, Circuit Court
Baldwin County
Bay Minette, Alabama 36507

Dear Mrs. Duck:

Please file the enclosed suit, Sea Ranch
Properties, Inc. vs Holyoke Mutual Fire Insurance
Company in Salem.

With kind regards, I am

Yours very truly,

Wil Hayes
Wilson Hayes

WH/rs
Enc.

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

MOBILE, ALABAMA

36601

JOSEPH H. LYONS (1900-1957)

SAM W. PIPES

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AUGUSTINE MEAHER, III

WESLEY PIPES

NORTON W. BROOKER, JR.

COOPER C. THURBER

AREA CODE 205

TEL. 432-4483

P. O. DRAWER 2727

May 29, 1973

Hon. Eunice B. Blackmon
Circuit Clerk
Baldwin County Courthouse
Bay Minette, Alabama

Re: Sea Ranch Properties vs. Holyoke Mutual Fire Ins. Co.
Case No. 9294


Dear Mrs. Blackmon:

It will be very much appreciated if you will sign and return
the enclosed letter to us.

With best wishes, I am,

Sincerely yours,

LYONS, PIPES, AND COOK



Walter M. Cook

WMC/mls

Encl.

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Holyoke Mutual Fire Insurance Company in Salem, A Corporation 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 the same then and there to answer the complaint of Sea Ranch Properties, Inc., a Corporation.

Witness my hand this the 29 day of May, 1970.

Clerk

SEA RANCH PROPERTIES, INC.
A Corporation,

PLAINTIFF

VS

HOLYOKE MUTUAL FIRE
INSURANCE COMPANY IN SALEM,
A Corporation,

DEFENDANT

X
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X
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X
X
X
X
X

IN THE CIRCUIT COURT

BALDWIN COUNTY, ALABAMA

AT LAW

NUMBER:

9294

I

The Plaintiff claims of the Defendant \$5,000.00, the value of a resturant building, which the Defendant, on the 9th day of September, 1967 insured against loss or injury by windstorm in the policy of insurance mentioned, Policy Number 01-042575 for the term of three years, which property was damaged by windstorm on the 17th day of August, 1969, of which the Defendant has had notice.

HAYES & BOGGS, Attorney's for Plaintiff

BY: W. H. Hayes

Plaintiff demands trial by Jury

W. H. Hayes

FILED

MAY 29 1970

ALICE J. DUCK
CLERK
REGISTER

2921
RECEIVED IN OFFICE
JUN 2 1970
M. S. BUTLER, Sheriff

NUMBER: 9294

Executed by serving 2 copies of
the within on Frank M. Mery
Superintendent
of Insurance, State of Alabama
This The 2 day of July 19 70
Sheriff of Montgomery County
M. S. Butler,
By W. L. Mason D. S.

SEA RANCH PROPERTIES, INC.
A Corporation,

PLAINTIFF

VS

HOLYOKE MUTUAL FIRE
INSURANCE COMPANY IN SALEM,
A Corporation,

DEFENDANT

M. S. Butler, Sheriff of Montgomery
County, Alabama, Claim \$1.50 each for
serving 1 process(es) and \$1.00
travel expense on each of 1
process(es) or a total of \$2.50

RECEIVED
W. L. Mason
JUN 1 1970 Deputy Sheriff

TAYLOR WILKINS
SHERIFF

IN THE CIRCUIT COURT
BALDWIN COUNTY, ALABAMA
AT LAW

LYONS, PIPES & COOK

ATTORNEYS AT LAW

2510 FIRST NATIONAL BANK BUILDING

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WESLEY PIPES
NORTON W. BROOKER, JR.
COOPER C. THURBER

36601

AREA CODE 205
TEL. 432-4483
P. O. DRAWER 2525

May 7, 1971

Mrs. Eunice B. Blackmon
Clerk, Circuit Court
Baldwin County Courthouse
Bay Minette, Alabama

Re: Sea Ranch Properties, Inc. vs. Pennsylvania Lumberman's
Insurance Company

CASE NO. 9299

Sea Ranch Properties, Inc. vs. Holyoke Mutual Fire Insurance
Company of Salem

CASE NO. 9294

In the Circuit Court of Baldwin County, Alabama.

Dear Mrs. Blackmon:

Please file the enclosed motions on behalf of the Defendants in
connection with the above styled cases.

With best wishes,

LYONS, PIPES AND COOK


James B. Kierce, Jr.

JBK/see

Enclosures