

SEA RANCH PROPERTIES,
INC., A Corporation,

Plaintiff,

VS.

PENNSYLVANIA LUMBERMAN'S
MUTUAL INSURANCE COMPANY,
A Corporation,

Defendant.

) IN THE CIRCUIT COURT OF
(
) BALDWIN COUNTY, ALABAMA
(
)
(AT LAW
(
)
(
)
(NUMBER: 9299

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 7th day of May, 19 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

SEA RANCH PROPERTIES,	*	IN THE CIRCUIT COURT OF
INC., A Corporation,	*	
	*	BALDWIN COUNTY, ALABAMA
Plaintiff,	*	
	*	
VS.	*	AT LAW
	*	
PENNSYLVANIA LUMBERMAN'S	*	
MUTUAL INSURANCE COMPANY,	*	
A Corporation,	*	
	*	
Defendant.	*	CASE NO. 9299

PLEA IN ABATEMENT

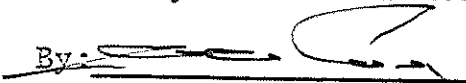
Comes now the defendant in the above styled cause, by and through its attorneys, appearing specially (and not generally) for the sole purpose of filing this Plea in Abatement and for no other cause whatsoever, and for Plea in Abatement says as follows, separately and severally:

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.

STATE OF ALABAMA

COUNTY OF MOBILE

I, Sharon E. Ekman, 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, Pennsylvania Lumberman's Mutual Insurance Company, 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 29TH day of June, 1970.

Sharon E. Ekman
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

CERTIFICATE OF SERVICE
I do hereby certify that I have on this 29th day of June, 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

JUN 29 1970

ALICE J. DUCK

CLERK
REGISTER

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Pennsylvania Lumberman's Mutual Insurance Company, 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.

Alice J. Buck
Clerk

SEA RANCH PROPERTIES, INC.
A Corporation,

PLAINTIFF

VS

PENNSYLVANIA LUMBERMAN'S
MUTUAL INSURANCE COMPANY,
A Corporation

DEFENDANT

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IN THE CIRCUIT COURT

BALDWIN COUNTY, ALABAMA

AT LAW

NUMBER: 9299

I

The Plaintiff claims of the Defendant \$10,000.00, the value of the contents of a restaurant building, which the Defendant, on the 9th day of June, 1967 insured against loss or injury by windstorm in the policy of insurance mentioned, Policy Number 1623-203 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
Attorneys for Plaintiff

By: Wilson Hayes

Wilson Hayes

Plaintiff demands trial by Jury

Wilson Hayes

FILED

MAY 29 1970

ALICE J. BUCK
CLERK
REGISTER

2926

RECEIVED IN OFFICE

JUN 2 1970

M. S. BUTLER, Sheriff

NUMBER:

9299

SEA RANCH PROPERTIES, INC.
A Corporation,

PLAINTIFF

VS

PENNSYLVANIA LUMBERMAN'S
MUTUAL INSURANCE COMPANY,
A Corporation

DEFENDANT

Executed by serving 2 copies of
the within on Frank Moore
Superintendent
of Insurance, State of Alabama

This The 2 day of June 19 70

Sheriff of Montgomery County

M. S. Butler,

By W. L. Moore D. S.

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

IN THE CIRCUIT COURT
BALDWIN COUNTY, ALABAMA
AT LAW

W. L. Moore JUN 2 1970 Deputy Sheriff

DAYTON
SHARPER

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:

Pennsylvania Lumberman's Mutual Insurance Company
211 So. Broad Street, P.M.L. Building
Philadelphia, Pennsylvania 19107

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)

Pennsylvania Lumberman's Mutual Ins. Co., Defendant

And that on the 9th day of June, 1970, I received
the return card showing receipt by the designated addressee of said envelope on
the 5th day of June, 1970.

Witness my hand and official seal this the 9th day of June,
1970.

R. Frank Usher

SUPERINTENDENT OF INSURANCE

FILED

JUN 10 1970

ALICE J. DUCK

CLERK
REGIS

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

May 3, 1973

Mrs. Eunice Blackmon, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama 36507


Re: Sea Ranch Properties Vs. Pennsylvania
Lumbermens, Case #9299

Dear Mrs. Blackmon:

Please dismiss all cases against Pennsylvania
Lumbermens by Sea Ranch Properties. This case has been
settled between the Parties. Have the costs taxed against
the Defendant.

With kind regards, I am

Yours very truly,


Wilson Hayes

WH/mm

cc: Mr. Walter M. Cook

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

9299

Dear Mrs. Duck:

Please file the enclosed suit, Sea Ranch
Properties, Inc. vs Pennsylvania Lumberman's
Mutual Insurance Company.

With kind regards, I am

Yours very truly,

Wilson Hayes
Wilson Hayes

WH/ms
Enc.