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Bay Minette, Ala.,

March 20th, 1920

M

Ella Poston  
vs  
B. J. Poston, et al

NON-RESIDENT NOTICE

**THE BALDWIN TIMES**

ABNER J. SMITH, PROPR.

FINE JOB PRINTING. BEST ADVERTISING MEDIUM

PROMPT SERVICE. LOWEST PRICES.

LOCAL AND LONG DISTANCE TELEPHONE

All Bills Must Be Paid Within 30 Days

To publishing Non-Resident in The Baldwin Times in  
issues of February 19th, 26th and March 4th and 11th, 1920:  
184 words @  $4\frac{1}{2}$ ¢ per word..... \$8.28

# THE BALDWIN TIMES

ABNER J. SMITH, PROPRIETOR

DEVOTED TO THE INTEREST OF BALDWIN COUNTY AND HER PEOPLE

PUBLISHED EVERY THURSDAY

SUBSCRIPTION: \$1.00 PER YEAR IN ADVANCE

ADVERTISING RATES ON APPLICATION

TELEPHONE No. 7, LOCAL AND LONG DISTANCE

BAY MINETTE, ALA.,

## AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,  
BALDWIN COUNTY.

ABNER J. SMITH, being duly sworn, deposes and says that he is the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper published at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

### NON-RESIDENT NOTICE

Ella Poston

VS

B. J. Poston, Alice Poston and John W. Hadley.

Was published in said Newspaper for 4 consecutive weeks in the following issues:

Date of first publication	February 19th, 1920	Vol. 31	No. 1
“ “ second “	February 26th, 1920	Vol. 31	No. 2
“ “ third “	March 4th, 1920	Vol. 31	No. 3
“ “ fourth “	March 11th, 1920	Vol. 31	No. 4

Subscribed and sworn to before the undersigned

this 29th day of March 1920.

T. W. Richerson  
Clerk Circuit Court.

Abner J. Smith  
Publisher.

**Non Resident Notice.**  
Ella Poston, Complainant, vs. B. J. Poston, Alice Poston and John W. Hadley, Defendants.  
No. 217.  
Circuit Court, Baldwin County, Alabama. In Equity.

In this cause it is made to appear to the Register, by the affidavit of Ella Poston, that the defendants, B. J. Poston and Alice Poston are each non-residents of the State of Alabama, and that they reside at, and their Post Office address is Bratt, Escambia County, Florida, and further that, in the belief of said affiant, the defendants and each of them are over the age of twenty-one years: It is, therefore, ordered by the Register that publication be made in the Baldwin Times, a newspaper published in Bay Minette, Baldwin County, Alabama, once a week for four consecutive weeks, requiring said B. J. Poston and Alice Poston and each of them to plead, answer or demur to the bill of complaint in this cause, by the 19th day of March, 1920, or in thirty days thereafter a decree pro confesso may be taken against them.

Done at office in Bay Minette, Alabama, this 18th day of February, 1920.

T. W. Richerson,  
Register.

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Ella Poston, Complainant,	)	Circuit Court,
vs.	)	Baldwin County, Alabama.
B.J.Poston, Alice Poston and John W. Hadley, Defendants.	)	In Equity.

To the Honorable John D. Leigh, Judge of the Circuit Court of Baldwin County, Alabama, Sitting in Equity:

Your oratrix, Ella Poston, exhibits this, her bill of complaint, against B.J.Poston, Alice Poston and John W.Hadley, and respectfully shows unto Your Honor as follows:

1.

That the complainant, Ella Poston, is over the age of twenty-one years, and resides in Baldwin County, Alabama; that the defendants, B.J.Poston, and Alice Poston are husband and wife, each over the age of twenty-one years, and are non-residents of the State of Alabama, and reside at Bratt, Escambia County, Florida; that the defendant, John W.Hadley, is over the age of twenty-one years and resides in Baldwin County, Alabama.

2.

That heretofore, on to-wit, September 9, 1916, the said B.J. Poston and Alice Poston were residing upon the Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4 East, Baldwin County, Alabama, as their homestead, the legal title to said property being at that time, as your oratrix is now informed and believes, and upon such information and belief, states, in the defendant, Alice Poston; that on said date the said B.J.Poston and Alice Poston borrowed from your oratrix the sum of Three hundred dollars, and to evidence said indebtedness, executed and delivered to your oratrix their three promissory notes, each in the sum of One Hundred Dollars, payable at the Bank of Atmore, Atmore, Alabama on to-wit, November 15, 1917, November 15, 1918 and November 15, 1919 after date, respectively, with interest at eight per cent, and by which said notes the said defendants agreed to pay attorneys' fees that the payee incurred in their collection, and expressly waived all rights of exemption, as will

more fully appear from copies of said notes hereto attached and marked Exhibits "A", "B" and "C" respectively, and prayed to be made and taken as a part of this bill of complaint.

3.

That in order to secure the payment of said promissory notes above set out, the said defendants, B.J.Poston and Alice Poston, agreed with complainant to execute to her a mortgage, covering the said forty acres of land upon which their house is located, and upon which they were then living, described as the Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4 East, and the said defendants, on said day, in order to obtain said loan of Three Hundred Dollars, did appear before one Jacob A.Shiver, at that time a Justice of the Peace of Baldwin County, Alabama, and requested him to prepare a mortgage from themselves to complainant, covering the said forty acres of land upon which they were residing, but the said B.J.Poston and Alice Poston did, through inadvertence, mistake or through fraud, describe said tract as being the Southwest quarter of the Northwest quarter of Section 14, Township 1 North of Range 4 East, instead of the Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4 East, and the mortgage, as prepared by said Jacob A. Shiver, and as executed and delivered to complainant by the said B.J. Poston and Alice Poston, erroneously conveyed the Southwest quarter of the Northwest quarter of Section 14, Township 1 North of Range 4 East, instead of the Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4 East, as was the agreement of the parties; that the complainant is a woman of very limited education, and not well versed in the matter of describing land by Government subdivisions, and that she relied on the said B.J.Poston and Alice Poston and the said Jacob A.Shiver, as the drawer of the conveyance, to prepare a mortgage according to the agreement, properly conveying the forty acre tract upon which the said mortgagors were residing, and that the complainant accepted said mortgage under the belief that it did convey the forty acre home place, whereas, in truth and in fact, the said mortgage

conveyed to complainant forty acres of land of which the complainant herself was, at the time, the sole owner. Therefore, unless relief can be had under this bill, the complainant is without security for said indebtedness.

4.

That on to-wit, December 5, 1918, the said defendants, B.J. Poston and Alice Poston, executed and delivered to the defendant, John W. Hadley, a deed, conveying to him in fee simple, the Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4 East, being the same land upon which the above described mortgage was intended to operate. The complainant avers that at the time the said John W. Hadley purchased the said property, as aforesaid, and accepted said deed, he knew that the said defendants, B.J. Poston and Alice Poston, had, within the past few years, executed a mortgage to the complainant, and that said mortgage was intended to be upon the home place of the said B.J. Poston and Alice Poston, described as the Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4 East.

5.

That by the terms and provisions of the mortgage executed as aforesaid, by B.J. Poston and Alice Poston to complainant, it is provided that if the said B.J. Poston and Alice Poston shall pay all indebtedness which said mortgage is intended to secure, and also the cost of probating and recording the instrument, and all lawyers' fees and other charges secured thereby, the said conveyance is to be void, but that upon default of such payments, then the complainant is authorized to take possession of said lands and sell same, after giving certain notices therein specified, for the satisfaction of said indebtedness, all of which will more fully appear from copy of said mortgage hereto attached as Exhibit "D" and prayed to be made and taken as a part of this bill of complaint. The complainant avers that no part of the indebtedness secured by said mortgage has been paid, that default has been made, so that said mortgage is now foreclosable, and that the said defendants, B.J. Poston and Alice Poston are indebted to the complainant on account of said notes, interest, costs and attorneys' fees, in the

sum of Four hundred, thirty-seven (\$437.00) dollars.

PRAYER FOR PROCESS AND RELIEF.

The premises considered, your oratrix prays that said B.J. Poston and Alice Poston be made parties defendant in this bill, by publication, as required by law, and that process of subpoena be issued to the said John W. Hadley, and that each of said defendants be required to answer this, your oratrix's bill of complaint, within the time allowed by law, under the penalties in that behalf provided.

That upon final hearing of this cause, Your Honor will be pleased to decree that the said defendants, B.J. Poston and Alice Poston, are indebted to your oratrix on account of the promissory notes, interest, costs and attorneys' fees provided therein, as above set forth, and that Your Honor will enter an order, correcting the mortgage given by the said defendants, B.J. Poston and Alice Poston to your oratrix, so that the same shall express the true intention of the parties, according to their agreement, -that is to say, that Your Honor will adjudge and decree that the said mortgage is operative upon the home place of the said B.J. Poston and Alice Poston, viz: The Northeast quarter of the Northeast quarter of Section 14, Township 1 North of Range 4, and will further <sup>sub a</sup> decree, subjecting said land to the payment of said indebtedness; and your oratrix prays for such other, further and different relief as, in equity and good conscience, she may be entitled, and as in duty bound she will ever pray.

HAMILTON, PAGE & CAFFEY,

~~XXXXXXXXXXXX~~

Solicitors for Complainant.

Foot-note: The defendants, and each one of them, are required to answer Paragraphs One to Five, both inclusive, of said bill of complaint, but not under oath, answer under oath being hereby expressly waived.

HAMILTON, PAGE & CAFFEY,

~~XXXXXXXXXXXX~~

Solicitors for Complainant.

\$100.00

Atmore, Ala., 9/9, 1916.

November the 15th, 1917 after date we promise to pay to the order of Ella Poston One Hundred Dollars for value received, with interest at 8 per cent after date.

And also for Attorney's fees that the payee or assignee of this note may incur in its collections; negotiable and payable without offset at The Bank of Atmore, Atmore, Alabama, and to secure the payment of this note each maker and endorser of the same hereby waives all his rights of exemption. And each endorser of this note waives the suit against the maker required by Section 892 of the Code of Alabama of 1896 and also waives presentment for payment, protest, and notice of protest and non-payment thereof; and does hereby expressly agree that his endorsement shall remain good and binding until this note is paid in full.

J.A. Shiver

J.A. Mothershead.

His  
B. J. XPOSTON (Seal)  
Mark

Her  
ALLIS XPOSTON (Seal)  
Mark

Exhibit "A"

\$100.00

Atmore, Ala., 9/9, 1916.

November the 15th, 1918 after date we promise to pay to the order of Ella Poston One Hundred Dollars for value received, with interest at 8 percent after date.

And also for Attorney's fees that the payee or assignee of this note may incur in its collections; negotiable and payable without offset at The Bank of Atmore, Atmore, Alabama, and to secure the payment of this note each maker and endorser of the same hereby waives all his rights of exemption. And each endorser of this note waives the suit against the maker required by Section 892 of the Code of Alabama of 1896 and also waives presentment for payment, protest, and notice of protest and non-payment thereof; and does hereby expressly agree that his endorsement shall remain good and binding until this note is paid in full.

J.A. Shiver  
J.A. Mothershead.

His  
B.J. x POSTON (Seal)  
Mark  
Her  
ALLIS x POSTON (Seal)  
Mark.

Exhibit "B".

\$100.00

On the 15th. day of November, 1919 the undersigned of this note promises to pay to the order of Ella Poston the sum of One hundred dollars for value received, in gold coin of the United States of the present standard weight and fineness with interest thereon from the 15th. day of Sept., 1916, at the rate of eight per centum per annum.

The parties to this instrument, whether maker, endorser, surety or guarantor, each for himself, hereby waive as to this debt, or any renewal thereof, all right to exemption under the Constitution and Laws of Alabama as to personal property, and they each severally agree to pay all cost of collecting, or securing, or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise. And the maker, endorser, surety guarantor of this note severally waives demand, presentment, protest, notice of protest, suit and all other requirements necessary to hold them, and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply, on or after maturity, to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor or any of them.

Witness our hands and seals this, the 9th. day of Sept., 1916.

His  
B.J.x POSTON (Seal)  
Mark

Her  
ALLIS x POSTON (Seal)  
Mark.

Attest: J.A. Shiver

Attest: J.A. Mothershead

Exhibit "C"

State of Alabama )  
                  )  
County of Baldwin )

KNOW ALL MEN BY THESE PRESENTS, That B.J. Poston and Aalice Poston, his wife, for and in consideration of our indebtedness to Ella Poston, in the sum of three hundred dollars, which is evidenced by 3 promissory notes bearing even date with this instrument, and made payable to the said Ella Poston as follows, to-wit: November the 15th, 1917, November the 15th, 1918, November the 15th, 1918; and for the purpose of securing the payment of said notes, and securing the payment of any other amounts the said Ella Poston may advance us, money or otherwise, during the year 1917, over and above the amount of said notes, and also all lawyers fees, recording fees and other charges and expenses agreed to be paid in or by said notes, or by this mortgage, do grant, bargain, sell and convey unto the said Ella Poston the following described property, situated in the county of Baldwin and State of Alabama, to-wit: The South West  $\frac{1}{2}$  of the North West  $\frac{1}{2}$  of Section fourteen in township one North of Range four East, containing 40 acres more or less.

It is agreed that the said Ella Poston should furnish supplies or make advances, money or otherwise, during the year 1917, over and above the amount named in said notes, such additional indebtedness shall be secured by this mortgage, and all payments made by or for us, whether derived from proceeds of sale of property herein conveyed or otherwise acquired, shall be applied, first towards the payment of such additional indebtedness, and we shall not be entitled to have any payment credited on said notes until such other additional indebtedness is fully satisfied.

To have and to hold to the said Ella Poston, her successors and assigns, forever. Provided, nevertheless, that if we shall pay and satisfy all indebtedness which this mortgage is intended to secure, and also the cost for probating and recording this instrument and all the lawyers' fees and other charges secured hereby, this conveyance is to be void; BUT ON DEFAULT of such payments or any one of them

Exhibit "D"

promptly when the same falls due, or should the said Ella Poston at any time before the same falls due feel unsafe or insecure, then the said Ella Poston, its successors or assigns, are hereby authorized to take possession of the above described property, and sell the same to the highest bidder for cash, at public auction at Bay Minette, Ala., and execute title to the purchaser, after giving 30 days' notice of the time and place of sale by advertisement in some newspaper published in said County, or by posting a written notice at the Court House and two other public places in said County. The proceeds of said sale to be applied, 1st., to pay for recording and probating this instrument, and the lawyers fees and other charges and expenses incident to the collection of sums secured by this mortgage, and to obtaining possession of said property, whether by suit or otherwise, and advertising, selling and conveying the same; 2nd., to pay any amount that may be due over and above the amount named in said notes; 3rd., to pay the amount due on said notes, and lastly, if there be any surplus the same to be paid over to the undersigned. It is agreed that the mortgagee may bid for and become the purchaser of any property sold under the power contained in this mortgage. And to further secure the payment of the sums mentioned in this mortgage, we do hereby waive all rights to claim the benefit of all homestead and other exemptions of real and personal property given under the Constitution and Laws of the State of Alabama.

In Witness whereof we have hereunto set our hands and affixed our seals the 9th. day of September, 1916.

Executed in the presence of:

J.A. Shiver.

J.A. Mothershead.

His  
B.J.x POSTON (L.S.)  
Mark.  
Her  
ALLIS x POSTON (L.S.)  
Mark.

Exhibit "D" (cont'd)

The State of Alabama )  
County of Baldwin. )

I, Jacob A. Shiver, a J.P. in and for said County and State, hereby certify that B.J. Poston and Allis Poston, whose names are signed to the foregoing conveyance and who is known to me acknowledged before me on this day that being informed of the contents of the conveyance.....executed the same voluntarily on the day the same bears date.

1916.

Jacob A. Shiver, J.P.

The State of Alabama )  
County of Baldwin. )

I, Jacob A. Shiver, J.P. in and for said County and State, do hereby certify that on the 9th. day of Sept., 1916 came before me the within named Allis Poston, known to me to be the wife of the within named B.J. Poston, who being examined separate and apart from the husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord and without fear, constraint or threats on the part of the husband.

In witness whereof I hereunto set my hand this 9th. day of Sept., 1916.

(SEAL).

Jacob A. Shiver,  
J.P.