

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 10th
day of April ~~Monday~~ 19... 73, in a cer-
tain cause in said Court wherein Mrs. W. A. Browder
..... Plaintiff, and David D. Livingston, Alabama Bonding Co. A Corp.
& Resolute Insurance Co. A Corp. Defendant, a judgement was rendered against said
..... Defendant
to reverse which Judgment the said ~~XXXXXX~~ Defendant
.....
.....
applied for and obtained from this office an APPEAL, returnable to the next
Civil Court of Appeals
Term of our Court of the State of Alabama, to be held at Montgomery, on the
..... day of 19..... next, and the necessary bond
having been given by the said David D. Livingston
..... with Alabama Bonding Co., Inc. by David D. Livingston sureties,
Resolute Insurance Company, Inc. by Hoke Smith
.....

Now, You Are Hereby Commanded, without delay, to cite the said Mrs. W. A. Browder
..... or Johnston, Johnston & Kendall
....., attorney, to appear at the next Term of our
Civil
said ~~Supreme~~ Court, to defend against the said Appeal, if they think proper.

EUNICE B. BLACKMON
Witness, ~~ALICE B. BLACKMON~~ Clerk of the Circuit Court of said County, this 16th
day of May A. D., 19... 73

Attest:

Eunice B. Blackmon Clerk.

RECEIVED

MAY 17 1973

TAYLOR WILKINS
SHERIFF

Wainwright

9952

Mobile

GP

#9799

CIRCUIT COURT
Baldwin County, Alabama

Mrs. W. A. Browder

Vs. { Citation in Appeal

David D. Livingston, Alabama Bonding Co. A Corp.
& Resolute Insurance Co. A Corp.

Received 18 Day of May 1973
and on 6 Day of June 1973
I served a Copy of the within Citation
on Johnston, Johnston & Kendall
by service on Mr. Kendall

RAY D. BRIDG

By M. Wainwright D. S.

Issued 16th day of May, 1973

Serve: Johnston, Johnston & Kendall

P. O. Box 550 - 810 Van Antwerp Bldg.
Mobile, Alabama 36604

6-6-X
Wainwright

ALABAMA SHERIFFS ASSOCIATION
MOBILE COUNTY, ALA.
MAY 18 8 50 AM '73

KENNETH COOPER
ATTORNEY AT LAW
109 EAST 1ST STREET
P. O. BOX 1000
BAY MINETTE, ALABAMA 36507
TELEPHONE (205) 937-7412

January 8, 1974

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


RE: Browder vs. Livingston
Civil Case No. ~~9800~~ 9799

Dear Mrs. Blackmon:

Attached is a statement from Mrs. Louise Dusenbury for the transcript in above cause, which case was appealed to the Court of Civil Appeals of Alabama last summer, and which was reversed by said Court on November 21, 1973, Civil Case No. 224.

Since this transcript was an essential part of the appeal record, and Mrs. Browder was responsible for the court costs of said appeal, you are requested to add this \$65.00 item to your costs in this cause, and present it to her attorney, Honorable Robert G. Kendall, Jr., for payment.

Sincerely


Kenneth Cooper

KC/jlr

enclosure 1

cc: Honorable Robert G. Kendall, Jr.
Honorable James D. Fuller

TWENTY-EIGHTH JUDICIAL CIRCUIT
BALDWIN COUNTY
BAY MINETTE, ALA. 36507

TELFAIR J. MASHBURN
JUDGE

TELEPHONE 937-3281
LOUISE DUSENBURY
COURT REPORTER

May 28, 1973

Hon. Kenneth Cooper,
Bay Minette, Alabama.

IN ACCOUNT WITH:

Louise Dusenbury, Court Reporter
Bay Minette, Alabama.

To original and TWO copies of transcript in
the case of Mrs. W. A. Browder, vs. David
D. Livingston, and Alabama Bonding Co., and
Alice B. Shirah (Johnson, vs. David D. Livingston
and Alabama Bonding Company, defendants-----\$65.00

KENNETH COOPER
ATTORNEY AT LAW
109 EAST 1ST STREET
P. O. BOX 1000
BAY MINETTE, ALABAMA 36507
TELEPHONE (205) 937-7412

July 13, 1973

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

RE: Browder vs. Livingston
Civil Case No. 9799 ✓

Dear Mrs. Blackmon:

Enclosed is the original ASSIGNMENTS OF ERROR in above-styled cause.

Presumably more than the original is needed. If so, you are requested to make the same and add the costs therefor to the cost bill in this cause.

Sincerely yours,


Kenneth Cooper

KC/jlr
enclosure
cc: Honorable J. Doyle Fuller

MRS. W. A. BROWDER,	Ø	IN THE CIRCUIT COURT OF
Plaintiff	Ø	BALDWIN COUNTY, ALABAMA,
Vs.	Ø	AT LAW.
DAVID D. LIVINGSTON, et	Ø	CASE NO. 9799
al,		
Defendants	Ø	

SECURITY FOR COSTS

We, the undersigned, hereby acknowledge ourselves security for all costs of appeal to the Alabama Court of Civil Appeals, from the decree rendered in the above entitled cause on the 10th day of April, 1973, and hereby agree to pay all such costs. And for the payment of this bond, we hereby waive our right of exemption to personal property under the Constitution and Laws of the State of Alabama.

WITNESS our hands and seals, this the 15 day of May, 1973.

JORDAN & HEARD, ATTORNEYS

BY: *Ray L. Lull*

Kenneth Cooper
KENNETH COOPER

TAKEN and APPROVED, this the 11 day of May, 1973.

Eunice B. Blackmon
CIRCUIT CLERK

FILED

MAY 11 1973

EUNICE B. BLACKMON CIRCUIT CLERK

STATE OF ALABAMA
BALDWIN COUNTY

SUPERSEDEAS BOND

KNOW ALL MEN BY THESE PRESENTS, That we David D. Livingston, and Alabama Bonding Company, Inc., as principals, and Resolute Insurance Company, of Hartford, Connecticut, by Hoke Smith, as Attorney In Fact, Alabama License No. 35410, issued by Alabama Department of Insurance, Montgomery, Alabama, as surety, are held and firmly bound unto Mrs. W. A. Browder in the just and full sum of Five Thousand and No/100 (\$5,000.00) dollars; for the payment of which, well and truly to be made and done, we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 10th day of May, 1973.

The condition of the above obligation is such, that whereas, Mrs. W. A. Browder obtained a decree in the above styled cause in the Circuit Court in law for said County, on the 10th day of April, 1973, from which decree the said David D. Livingston and Alabama Bonding Company, Inc., have taken an appeal returnable to the next term of the Alabama Court of Civil Appeals.

Now, therefore, if the said David D. Livingston and Alabama Bonding Company, Inc. shall prosecute the said appeal to effect, and satisfy such decree as may be rendered against them in said cause by the Alabama Court of Civil Appeals, then this obligation is to be null and void, otherwise to remain in full force and effect.

And we, and each of us, hereby waive all rights to or claim of exemption as to personal property we or either of us have now or may hereafter have, under the Constitution and Laws of Alabama, and we hereby severally certify that we have property free from all incumbrance to the full amount of the above bond.

Witness our hands and seals this the 10th day of May, 1973.

Laurel D. Livingston (SEAL)
INDIVIDUALLY

ALABAMA BONDING COMPANY, INC.

By:

Laurel D. Livingston
PRESIDENT

RESOLUTE INSURANCE COMPANY, INC.

By:

Hake Smith

Taken and approved this the 11th day of May, 1973

Ernest B. Blackman
CLERK, CIRCUIT COURT



**POWER-OF-ATTORNEY
RESOLUTE INSURANCE COMPANY**

GP N^o 55761

HARTFORD, CONNECTICUT

KNOW ALL MEN BY THESE PRESENTS: That this Power-of-Attorney is not valid unless attached to the bond which it authorizes executed, and THE LIABILITY OF THE COMPANY, HEREIN,

THE LIABILITY OF THE COMPANY
SHALL NOT EXCEED.....

THE SUM 5000 DOLLARS 00 CTS

RESOLUTE INSURANCE COMPANY, a Rhode Island corporation, having its principal office in the City of Hartford, state of Connecticut, does hereby make, constitute and appoint Hoke Smith

in the City of Bay Minette, County of Baldwin, State of Alabama

its true and lawful attorney-in-fact, at Bay Minette, Baldwin Co., in the State of Alabama

to make, execute, seal and deliver for and on its behalf, and as its act and deed, bonds of guaranty, bonds and undertakings in behalf of court fiduciaries, who under the jurisdiction of a court, administer property held in trust; public official bonds; license and permit bonds; tax, lien and miscellaneous bonds required by Federal, State, County, or Municipal Authority, provided that the liability of the company as surety on any such bond executed under this authority shall not in any event exceed the sum shown above.

THIS POWER VOID IF ALTERED OR ERASED

The acknowledgment and execution of any such document by the said Attorney-In-Fact shall be as binding upon the Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

The Resolute Insurance Company further certifies that the following is a true and exact copy of a resolution of the Board of Directors of the Resolute Insurance Company, duly adopted and now in force, to wit: All bonds of the Corporation shall be executed in the corporate name of the Company by the President, any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, or any Assistant Secretary may appoint Attorneys-in-fact or agents who shall have authority to issue bonds in the name of the Company.

IN WITNESS WHEREOF, the said RESOLUTE INSURANCE COMPANY has caused these presents to be executed by its officer, with its corporate seal affixed, this date of May 7, 1973

RESOLUTE INSURANCE COMPANY

STATE OF CONNECTICUT }
COUNTY OF HARTFORD } SS:

By

J. O. Robinson

President

1. SINGLE POWER-OF-ATTORNEY MUST BE ATTACHED TO EACH BOND EXECUTED.
2. POWER-OF-ATTORNEY MUST NOT BE RETURNED TO ATTORNEY-IN-FACT, BUT SHOULD REMAIN A PERMANENT PART OF THE OBLIGEE'S RECORDS.

**THIS POWER DOES NOT AUTHORIZE THE EXECUTION OF
CONSTRUCTION CONTRACT BONDS OR BONDS FOR LOAN GUARANTEES**

On this May 7, 1973, before me, a Notary Public, personally appeared J. O. Robinson, who being by me duly sworn, acknowledged that he signed the above Power-of-Attorney as an officer of the said RESOLUTE INSURANCE COMPANY, and acknowledged said instrument to be the voluntary act and deed of the Corporation.

My commission expires: April 1, 1976

Theresa A. Brenner

Notary Public

This power not valid unless used before December 31, 1973

Principal or case reference Alabama Bonding Company, Inc. & David D. Livingston

MRS. W. A. BROWDER,

Plaintiff

-VS-

DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY,
A CORPORATION, JOINTLY AND
INDIVIDUALLY,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9799

NOTICE OF APPEAL

Comes now David D. Livingston, and Alabama Bonding Company,
A Corporation, jointly and individually, defendants in above
styled cause, and hereby appeal to the Court of Civil Appeals,
State of Alabama, from the final judgment rendered in said cause
on the 10th day of April, 1973.

Kenneth Cooper

ATTORNEY FOR DEFENDANTS

I hereby acknowledge myself as security for costs in the
aforegoing appeal.

Kenneth Cooper

ATTORNEY FOR DEFENDANTS

FILED

MAY 11 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

NOV 21 1973

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE COURT OF CIVIL APPEALS

OCTOBER TERM, 1973-74

Civ. 224

David D. Livingston, Alabama Bonding Company,
A Corporation, jointly and individually

v.

Mrs. W. A. Browder

Appeal from Baldwin Circuit Court

HOLMES, J.

This is an appeal by the appellant, surety on an appearance bond, from a \$2,500 judgment rendered against him for trespass. Appellant's dispositive assignment of error is that the court wrongfully charged the jury as to the rights of

a bail bondsman to pursue and arrest his principal in the house of a third person.

The pertinent portion of the court's charge is as follows:

"Now as I said just now, as far as the law is concerned, Mr. Livingston, if he had a certified copy of that bond there that night and that is one of the points you have to determine here - if he had a certified copy of the bond with him, that gave him the right to pick up Mr. Gilmer, but I charge you that it did not give him the right to enter Mrs. Browder's home over her protest or without her invitation."

Appellant excepted to the charge by stating:

"MR. FULLER: We have one objection, based on the law as we view it and that is your instructions to the jury that certified copy did not give David Livingston the right to enter that house over Mrs. Browder's objection.

"THE COURT: That is where we differ on the law and I give you an exception to it. I know already that you don't think that is the law."

We further note that the trial court's oral charge, taken as a whole, is to the effect that under

all circumstances a bail bondsman cannot enter the home of a third party to approach the principal without the third party's permission or consent.

The tendencies of the evidence reveal the following. Harvey Gilmer was arrested and jailed in Montgomery, Alabama, in June 1970, on charges of Driving While Intoxicated and No Drivers License. He obtained appearance bonds from Alabama Bonding Company, Inc., and was released pending his trial date of June 9, 1970. On the trial date, Gilmer failed to appear, thereby "jumping bond." The appellant Livingston, along with one of his employees, obtained certified copies of the bonds and drove to the residence of the appellee-plaintiff, the mother of Gilmer, in Baldwin County, Alabama, in search of Gilmer. They arrived in the evening on June 10, 1973. They noticed Gilmer's car out front and appellant could see Gilmer sitting in the house watching television. Appellant walked up on the porch and knocked on the door. He observed Gilmer getting up from his seat and leaving the living room. Appellee, Mrs. Browder, came to the door and opened it. After some question as to the automobile out front, appellant testified that he identified himself in the following manner:

"I told her I was David Livingston from Montgomery; that I was bondsman and I was there to arrest Harvey Gilmer and I had a certified copy of the bond."

Appellant asked if Gilmer was there. Appellee answered that he was. Appellant held up the alleged certified copy but appellee didn't get a chance to read it since, at this time, appellant saw Gilmer proceeding to the back of the house and appellant stepped through the door and apprehended Gilmer, who gave no resistance. There is conflicting testimony whether appellant said he had a search warrant or otherwise properly identified himself. Also, there is conflict whether appellee told appellant to wait at the door or come into the house.

Wide latitude has historically been given bail bondsmen to arrest their principal. This concept is bottomed on the premise that an original right arises from the relationship between a principal and his bail. This right has been likened to the rearrest by the sheriff of an escaping prisoner. The surety on a bail bond is liable in that the principal must appear at the prescribed time and place or the surety must pay the sum stated in the bond. Since the appearance of the principal is the surety's responsibility, the principal is technically in the custody of the surety. There is a strong public policy in preventing the principal from "jumping bond" and because of this, the surety is permitted a large discretion as to the steps necessary to effect the apprehension of the principal. Clearly, this large amount of authority allowed the surety is justified by the responsibility imposed upon him. See 8 Am. Jur. 2d Bail and Recognizance §§ 114-117; 8 C. J. S. Bail

§ 87; Restatement: Security, Chap. 9, § 204, and comments a, b, and c; Anno. 3 A. L. R. 180; Anno. 73 A. L. R. 1369; Smith v. Rosenbaum, 333 F. S. 35; Curtis v. Peerless Ins. Co., 299 F. S. 429; 21 Ala. L. Rev. 601 (1969); 66 Dick. L. Rev. 101 (1961). See also: Vol. III, Hawkins, Pleas of the Crown, Chap. 15, p. 185 (1795).

Pertinent Alabama statutes as to arrest of the principal by bail bondsmen are found in Ala. Cofe, Tit. 15, §§ 209, 210, and read as follows:

§ 209:

"Bail discharged by surrender of principal; may arrest, or authorize arrest, of principal.--Bail may, at any time before a conditional judgment is rendered against them, exonerate themselves by surrendering the defendant; and for that purpose they may arrest the defendant on a certified copy of the undertaking at any place in the state, or may authorize another person to arrest him by an indorsement in writing on such copy."

§ 210:

"Arrest by bail after conditional judgment.--After the rendition of conditional judgment against them, bail may arrest the defendant as provided

in section 209 of this title; but such arrest and delivery of the defendant to the sheriff shall not exonerate the bail unless, in the judgment of the court, a good and sufficient excuse is given for the failure of the defendant to appear at the time the conditional judgment was rendered."

These statutes clearly provide that the bail or surety has the right to pursue the principal any place in the state and arrest him. This right of arrest is conditioned upon the surety's obtaining a certified copy of the bond, which serves as his legal process. Nicholson v. Kilpatrick, 188 Ala. 258, 66 So. 8; Gray v. Strickland, 163 Ala. 344, 50 So. 152; Shine v. State, 44 Ala. App. 171, 204 So. 2d 817.

Two of the leading cases construing the powers of bail bondsmen are Taylor v. Taintor, 16 Wall. (83 U. S.) 366 (1873), and In re Von der Ahe, 85 F. 959 (1898). The court in the Von der Ahe case, as in Taylor, stated that the custody of the bail over the principal was for all purposes a continuance of the original imprisonment. Importantly, the court analogized the power of a bail bondsman to arrest his principal to the power of a sheriff to rearrest an escaping prisoner. Note, however, that the right of a surety to capture his principal is not a matter of criminal procedure, but arises from private rights

established by the bail contract between the principal and his surety.

The question now presents itself as to what procedure is necessary in the bail bondsman's arrest of his principal. Generally, an officer having the right to arrest a person for a misdemeanor may use such force as is necessary to effect his purpose, but he may not use excessive force. The privilege to arrest for a criminal offense generally includes the right to enter land in the possession of another for the purpose of making the arrest, if the person sought to be arrested is there. It also appears that if an officer or private person has reasonable and just cause to believe that the person sought is on the premises, he may enter for the purpose of arresting one who is accused of a felony, or is guilty of a breach of the peace or a misdemeanor committed in his presence. See: 5 Am. Jur. 2d Arrest §§ 82, 86.

Alabama Code, Tit. 15, § 153, provides:

"Arrest by officer under warrant; when and how made.--An officer may execute a warrant of arrest on any day and at any time; he must, in doing so, inform the defendant of his authority, and, if required, must show the warrant; and if he is refused admittance, after notice of his authority and purpose, he may break an outer or inner door or window of a dwelling house, in order to make the arrest."

Importantly, in most circumstances, a person must make known his purpose and demand admittance before breaking into and entering the house of another to make an arrest. 5 Am. Jur. 2d Arrest § 93. Mr. Justice Bouldin, in Gray v. Williams, 230 Ala. 14, 18, 160 So. 715, 718, spoke to this point when he stated:

"In entering the dwelling of a third person, especially at night, the officer is under duty to apprise the head of the family of his mission and authority. No particular words are necessary, but, coming in the name of the law, he should make known such fact."

In the instant case, there is testimony that Livingston identified himself and made known his purpose and authority to appellee. If believed by the trier of fact, this appears to be adequate and necessary for identification purposes. Gray v. Williams, supra; Spooney v. State, 217 Ala. 219, 115 So. 308.

Under Alabama law, an officer may use reasonable force to arrest but is without privilege to use more force than is necessary to accomplish the arrest. Union Indemnity Co. v. Webster, 218 Ala. 468, 118 So. 794

As to the reasonableness of the arrest and the actions by Livingston, the bail bondsman, to effectuate it, we note the following. The evidence

tended to show that the appellant saw and recognized Gilmer's car outside appellee's home. He also saw Gilmer sitting inside when he walked up to the porch to knock on the door. After he knocked on the door, he saw Gilmer leave the room, and appellee came to the door and opened it. While the door was open, he saw Gilmer going down the back hallway and stepped through the door and apprehended him. These actions would present a question for the jury as to the reasonableness of the actions as there was no violence whatsoever. Gilmer peacefully submitted to the arrest.

Able counsel for appellee states in brief that it would be inconceivable for the law to allow bail bondsmen to enter and search the homes of private citizens at will without any legal or judicial supervision. He may well be correct, but a bondsman does have the authority to arrest, as in this instance, when he sees his principal in the dwelling; when he properly identifies himself; and when he acts in a reasonable manner to enter the dwelling to effectuate his arrest. See: Beard v. Stephens, 372 F. 2d 685. Under the circumstances referred to above, he would not be required to have the permission or consent of the owner of the dwelling, as the trial judge charged.

In view of the above, the trial court's oral charge to the jury, to the effect that a bail bondsman must have the consent or permission of a third party or he will be liable for trespass, was, under

the evidence of this case, an incorrect statement of the law. Furthermore, in this regard, taken as a whole, the charge was misleading to the jury. We also find that appellant's exception to the charge was sufficient to direct the attention of the court to the specific language to which appellant objected.

We particularly note that there is a factual question involved in the case whether appellant-Livingston misrepresented himself or his status. If appellant misrepresented his authority, or did not have authority, he might be found guilty of a trespass. See United States v. Trunko, 189 F. S. 559 (D. C. Ark. 1960).

In view of the above, it is not necessary to discuss appellant's other assignments of error and the cause is reversed and remanded.

REVERSED AND REMANDED.

Wright, P. J., and Bradley, J., concur.

I, J. O. Sentell, Clerk of the Court of Civil Appeals of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appears of record in said Court.

Witness my hand this 21st day of Nov. 19 73



Clerk, Court of Civil Appeals of Alabama

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE COURT OF CIVIL APPEALS OF ALABAMA

October Term, 1973-74

Div. No. Civ. 224

To the Clerk ~~Register~~ of the Circuit Court of Baldwin County, Greeting:

Whereas, the Record and Proceedings of the Circuit Court of said county, in a certain cause lately pending in said Court between David D. Livingston, Alabama Bonding Company, a Corporation, jointly and individually and Mrs. W. A. Browder, Appellant, Appellee, wherein by said Court it was considered adversely to said appellant, were brought before the Court of Civil Appeals, by appeal taken, pursuant to law, on behalf of said appellant;

Now, it is hereby certified:

That the Court of Civil Appeals on the 21st day of November, 1973, reversed and annulled the judgment of the Court below, and remanded the cause to said Court for further proceedings therein.

That the Court further ordered the appellee Mrs. W. A. Browder

pay the costs accruing on said appeal in this Court and in the Court below, for which costs let execution issue.

Witness, J. O. Sentell, Clerk of the Court of Civil Appeals of Alabama, at the Judicial Department

Building, this the 21st day of November, 1973

J. O. Sentell
Clerk of the Court of Civil Appeals of Alabama.

THE COURT OF CIVIL APPEALS
OF ALABAMA

October Term, 19 73-74

Div., No. Civ. 224

David D. Livingston, Alabama
Bonding Company, a Corporation
jointly and individually
Appellant,

vs.

Mrs. W. A. Browder

Appellee.

From Baldwin Circuit *Court.*

No. 9799

**CERTIFICATE OF
REVERSAL**

The State of Alabama,

FILED

County.

} Filed

this NOV 26 1973 *19*

EUNICE D. BLACKMON *CIRCUIT*
CLERK

MRS. W. A BROWDER,

Plaintiff,

-VS-

DAVID D. LIVINGSTON, et al,

Defendants,

§

§

§

§

§

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9799

DEMURRER

Come now the Defendants, David D. Livingston, Alabama Bonding Company, a corporation, and Resolute Insurance Company, a corporation, and demur to the Complaint in the above cause, and as grounds for said Demurrer, the Defendants aver, separately and severally, the following separate and several grounds:

1. Said Complaint is not in code form.
2. Said Complaint is vague, indefinite, and uncertain and does not properly apprise the Defendants of what they are called upon to defend.
3. For said Complaint does not properly apprise the Defendants as to whether or not David D. Livingston was acting as an agent of both Defendants at the time of the trespass averred in said Complaint.
4. For that no facts are averred on which a jury could return a verdict with punitive damages.
5. For the said Complaint does not aver any injury or damage to said property upon which the Defendants are accused of trespassing.
6. For that said Complaint avers no special damage to the property on which the Defendants are alleged to have trespassed, and the Complaint, thus, erroneously claims punitive damages.
7. For that said Complaint avers no facts upon which punitive damages may be awarded.

69-456A

8. For that no facts are alleged in said Complaint to sufficiently apprise the Defendants of the value of the property before and after the alleged trespass by the Defendants.

Kenneth Cooper
ATTORNEY FOR DEFENDANTS

The Defendants demand a trial by jury in this cause.

Kenneth Cooper
ATTORNEY FOR DEFENDANTS

I certify that I have mailed a copy of the foregoing Demurrer to Honorable Robert B. Kendall, Johnston, Johnston and Kendall, Post Office Box 550, Mobile, Alabama 36600, by depositing the same in the United States Mail, postage prepaid, at Bay Minette, Alabama, on this the 5th day of April, 1973.

Kenneth Cooper
ATTORNEY FOR DEFENDANTS

FILED

APR 6 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

69-1456B

MRS. W. A. BROWDER,	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
DAVID D. LIVINGSTON, ALA-	X	AT LAW
BAMA BONDING COMPANY, a	X	CASE NO. 9799
corporation, and RESOLUTE	X	
INSURANCE COMPANY, a cor-	X	
poration, jointly and in-	X	
dividually,	X	
Defendants	X	

M O T I O N

Come now the Defendants in the above cause, with the acquiescence of the Plaintiff, and move the Court to continue the above cause generally to the next term of Court.

Filed
7-28-72

Eunice B. Blackmon
Circuit Clerk

James D. Straiton
JAMES D. STRAITON, Attorney for
Defendants

O R D E R

Upon consideration of the above motion, it is hereby ORDERED, ADJUDGED and DECREED that the above cause be continued generally to the next regular term of the Circuit Court of Baldwin County, Alabama.

DONE this the 24th day of July, 1972.

J. J. A. Madaleno
CIRCUIT JUDGE

ATTORNEY FOR DEFENDANTS:

JAMES D. STRAITON
Attorney at Law
Suite 1100 - Bell Building
Post Office Box 4292
Montgomery, Alabama 36104

FILED

JUL 2 1972

EUNICE B. BLACKMON CIRCUIT CLERK

No. 9799

_____ County, Circuit Court.

MRS. W. A. BROWDER

Plaintiff.
vs.

DAVID D. LIVINGSTON, ALABAMA BONDING COMPANY, A CORPORATION, Jointly & Individually
Defendant.

I, Eunice B. Blackmon Clerk of Civil Court,
of Baldwin County, Alabama, hereby certify that in the
cause of Mrs. W. A. Browder plaintiff,
vs.

David D. Livingston, Alabama Bonding Company, A Corp. Jointly & Individually
defendant,
which was tried and determined in this Court on the 10th day of
April 19 73, in which there was a judgment for \$2,500.00
Dollars, in favor of the plaintiff, (~~or judgment~~
~~for defendant~~), the 11th on the May day of
1973, took an appeal to the Civil Court
of Appeals
of Alabama to be holden of and for said State.

I further certify that Kenneth Cooper
filed security for cost of appeal, to the Civil Court of Appeals Court, on
the 11th day of May 19 73, and that _____,
Kenneth Cooper, & Jordan & Heard by J. Doyle Fuller,
are sureties on the appeal bond.

I further certify that notice of the said appeal was on the 6th
day of June 19 73, served on Johnston, Johnston & Kendale
as attorney of record for said appellee, (and that the amount sued for
was \$25,000.00 Dollars. (Or certain lands)
(Or personal property.)

Witness my hand and the seal of this Court, this the 7th
day of June 19 73.

Eunice B. Blackmon
Clerk of the Circuit Court of
Baldwin County, Alabama.

MRS. W. A. BROWDER,
Plaintiff

-VS-

DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY,
a corporation, and
RESOLUTE INSURANCE COMPANY,
a corporation,
jointly and individually,

Defendants


IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9799


AFFIDAVIT

I, Kenneth Cooper, as one of the attorneys of record for defendant David D. Livingston in the above-styled cause, hereby certify that the oral deposition of Mrs. W. A. Browder and Alice B. Shirah are needed in the above case on the legal ground that each is a woman and that each is a material witness. It is requested that Mrs. W. A. Browder and Alice B. Shirah be subpoenaed to appear at 2:00 p.m. on Friday, August 4, 1972, in the Law Library of Baldwin County Courthouse, at Bay Minette, Alabama.


ATTORNEY FOR DEFENDANT
DAVID D. LIVINGSTON

Sworn to and subscribed before me on this the twenty-sixth day of July, 1972.

My Commission Expires:
~~October 6, 1974~~
3-26-75


NOTARY PUBLIC
STATE AT LARGE, STATE OF ALABAMA

FILED

JUL 28 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

MRS. W. A. BROWDER, : IN THE CIRCUIT COURT
 Plaintiff, : OF BALDWIN COUNTY,
 Vs. : ALABAMA
 DAVID D. LIVINGSTON, et al, : AT LAW
 Defendants. : CASE NO. 9799

AMENDED COMPLAINT

COMES NOW the Plaintiff in the above-styled cause and amends her Complaint to read as follows:

Plaintiff claims of the Defendants the sum of TWENTY-FIVE THOUSAND AND NO/100THS (\$25,000.00) DOLLARS, as damages, for a trespass by the Defendants on land belonging to the Plaintiff located at Route 1, Box 175, Loxley, Alabama, said trespass occurring on the 10th day of June, 1970, and the Plaintiff claims punitive damages.


 Attorney for Plaintiff

OF COUNSEL:

JOHNSTON, JOHNSTON & KENDALL
 Post Office Box 550
 Mobile, Alabama 36601

FILED

FEB 11 1972

EUNICE B. BLACKMON CIRCUIT CLERK

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all parties in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 9th day of February, 1972.


 Attorney for Plaintiff

We the Jury find for the Plaintiff
in the amount of \$2500⁰⁰ Plus Cost
of Court

O P Hall

Forsman

MRS. W. A. BROWDER,	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
DAVID D. LIVINGSTON, ALA-	X	AT LAW
BAMA BONDING COMPANY, a	X	CASE NO. 9799
corporation, and RESOLUTE	X	
INSURANCE COMPANY, a corpora-	X	
tion, jointly and indi-	X	
vidually,	X	
Defendants	X	

M O T I O N

Come now the Defendants in the above cause, with the acquiescence of the Plaintiff, and moves the Court to continue the above cause generally to the next term of Court.

Filed
10-8-71
Eunice B. Blackmon
Circuit Clerk

James D. Straiton

JAMES D. STRAITON, Attorney for
Defendants

O R D E R

Upon consideration of the above motion, it is hereby ORDERED, ADJUDGED and DECREED that the above cause be continued generally to the next regular term of the Circuit Court of Baldwin County, Alabama in the year of 1972.

DONE this the 8th day of October, 1971.

W. J. Maslowski

CIRCUIT JUDGE

ATTORNEY FOR DEFENDANTS:

JAMES D. STRAITON
Attorney at Law
Suite 1100 - Bell Building
Post Office Box 4292
Montgomery, Alabama 36104

FILED

OCT 8 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

MRS. W. A. BROWDER,	X	
Plaintiff	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
DAVID D. LIVINGSTON,	X	AT LAW
ALABAMA BONDING COMPANY,	X	CASE NO. 9799
a corporation, and	X	
RESOLUTE INSURANCE	X	
COMPANY, a corporation,	X	
jointly and individually,	X	
Defendants	X	

A N S W E R

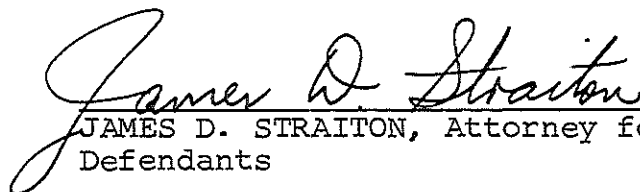
Come now the Defendants, David D. Livingston, Alabama Bonding Company, a corporation, and Resolute Insurance Company, a corporation, with leave of the Court first had and obtained to file additional answers at a later date, and files this their answer to the Complaint in the above cause, and to each count thereof, separately and severally:

1. The Defendants plead not guilty.
2. The Defendants plead the general issue.
3. For that the Defendants did, in conformance with the Code of Alabama, Title 15, Sections 209 and 210, attempt to arrest one Harvey Gilmer by presenting him with a certified copy of the undertaking, and it was during this arrest of one Harvey Gilmer that the Defendants went on the property of Mrs. W. A. Browder, and said Defendants went on said property with legal cause and good excuse in that they were arresting a fugitive.

FILED

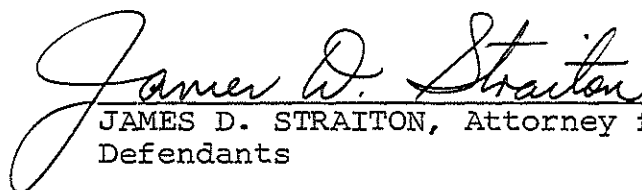
JUL 20 1971

WILLIE B. BLACKMON CIRCUIT CLERK


JAMES D. STRAITON, Attorney for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the foregoing Answer on the Honorable Robert B. Kendall, Johnston, Johnston and Kendall, Attorneys at Law, Post Office Box 550, Mobile, Alabama, by mailing a copy of same by United States mail, first-class postage prepaid, this the 19 day of July, 1971.


JAMES D. STRAITON, Attorney for Defendants

JAMES D. STRAITON
Post Office Box 4292
Montgomery, Alabama 36104

MRS. W. A. BROWDER,	X	
Plaintiff	X	
Vs.	X	IN THE CIRCUIT COURT OF
DAVID D. LIVINGSTON,	X	BALDWIN COUNTY, ALABAMA
ALABAMA BONDING COMPANY,	X	AT LAW
a corporation, and	X	
RESOLUTE INSURANCE	X	CASE NO. 9799
COMPANY, a corporation,	X	
jointly and individually,	X	
Defendants	X	

D E M U R R E R

Come now the Defendants, David D. Livingston, Alabama Bonding Company, a corporation, and Resolute Insurance Company, a corporation, and demur to the Complaint in the above cause, and as grounds for said Demurrer, the Defendants aver, separately and severally, the following separate and several grounds:

- ✓ 1. Said Complaint is not in code form.
2. Said Complaint does not aver as to how the Defendant, David D. Livingston, was acting in his dual capacity as an agent, servant or employee of the other Defendants.
- ✓ 3. Said Complaint is vague, indefinite, and uncertain and does not properly apprise the Defendants of what they are called upon to defend.
4. For said Complaint does not properly apprise the Defendants, Alabama Bonding Company, a corporation, and Resolute Insurance Company, a corporation, of the particular way in which the Defendant, David D. Livingston, acted as their agent, servant or employee.
5. For said Complaint does not sufficiently state in what way the Defendant, David D. Livingston, was acting within the line and scope of his authority as an agent for Alabama Bonding Company, a corporation, and Resolute Insurance Company, a corporation.
- ✓ 6. For said Complaint does not properly apprise the Defendants as to whether or not David D. Livingston was acting as

an agent of both Defendants at the time of the trespass averred in said Complaint.

✓ 7. For that no facts are averred on which a jury could return a verdict with punitive damages.

8. For that there is no legal description in said Complaint of the property on which the Defendants are alleged to have trespassed.

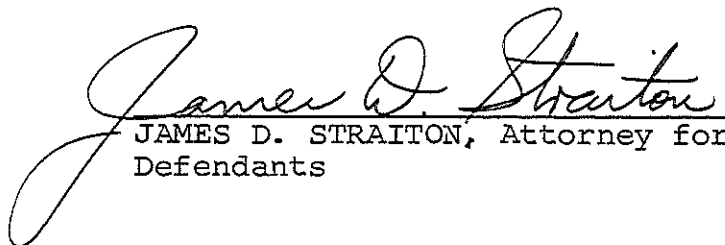
9. For that said Complaint is vague, indefinite and uncertain in that it does not properly describe the property on which the Defendants are alleged to have committed a trespass.

✓ 10. For that said Complaint does not aver any injury or damage to said property upon which the Defendants are accused of trespassing.

✓ 11. For that said Complaint avers no special damage to the property on which the Defendants are alleged to have trespassed, and the Complaint, thus, erroneously claims punitive damages.

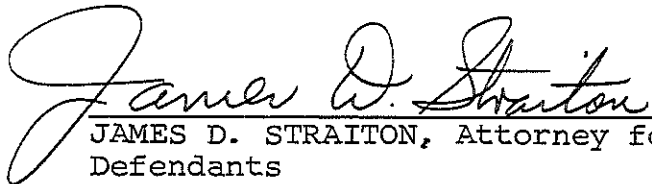
✓ 12. For that said Complaint avers no facts upon which punitive damages may be awarded.

✓ 13. For that no facts are alleged in said Complaint to sufficiently apprise the Defendants of the value of the property before and after the alleged trespass by the Defendants.



JAMES D. STRAITON, Attorney for the Defendants

The Defendants demand a trial by jury in this cause.

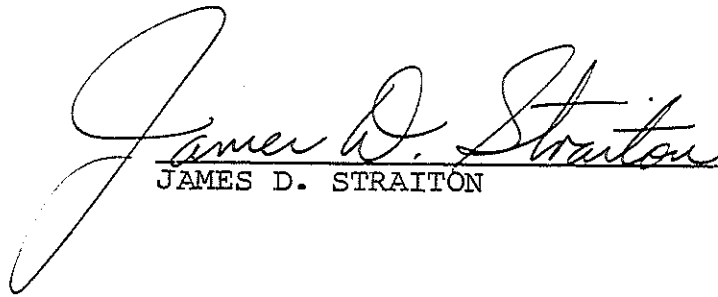


JAMES D. STRAITON, Attorney for the Defendants

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the foregoing Demurrer on the Honorable Robert B. Kendall, Johnston, Johnston and Kendall, Post Office Box 550, Mobile, Alabama, by

mailing the same by United States mail, first-class postage pre-paid, this the 21 day of May, 1971.


JAMES D. STRAITON

ATTORNEY FOR THE DEFENDANTS:

JAMES D. STRAITON
Attorney at Law
Suite 1100 - Bell Building
Post Office Box 4292
Montgomery, Alabama 36104

FILED

MAY 24 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

Superintendent of Insurance

STATE OF ALABAMA
DEPARTMENT OF INSURANCE

I, the undersigned as Superintendent of Insurance for the State of Alabama,
hereby certify that on the 28th day of April, 1971, I
sent by registered mail in an envelope as follows:

Resolute Insurance Company
163 Asylum Avenue
Hartford, Connecticut 06102

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:

Mrs. W. A. Browder, Plaintiff
Case No. 9799
in the Circuit Court of Baldwin County

VERSUS

Alabama Bonding Company, a corp., and
Resolute Insurance Company, a corp., Defendant
(Name of Court)

And that on the 6th day of May, 1971, I received
the return card showing receipt by the designated addressee of said envelope on
the day of not shown, 1971.

Witness my hand and official seal this the 6th day of May,
1971.

John B. Bookout
SUPERINTENDENT OF INSURANCE

FILED

MAY 7 1971

EUNICE B. BLACKMON
CIRCUIT
CLERK

MRS. W. A. BROWDER, : IN THE CIRCUIT COURT
 Plaintiff, : OF BALDWIN COUNTY,
 Vs. : ALABAMA
 DAVID D. LIVINGSTON, : AT LAW
 ALABAMA BONDING COMPANY, : CASE NO. 9799
 a corporation, and :
 RESOLUTE INSURANCE :
 COMPANY, a corporation, :
 jointly and individually, :
 Defendants. :

Plaintiff claims of the Defendants the sum of TWENTY-FIVE THOUSAND AND NO/100THS (\$25,000.00) DOLLARS, as damages, for a trespass by the Defendant David E. Livingston, an agent, servant or employee of the other Defendants, acting within the line and scope of his authority as such, on land belonging to the Plaintiff located at Route 1, Box 175, Loxley, Alabama, said trespass occurring on the 10th day of June, 1970, and the Plaintiff claims punitive damages.



Attorney for Plaintiff

OF COUNSEL:

JOHNSTON, JOHNSTON & KENDALL
 Post Office Box 550
 Mobile, Alabama

Plaintiff respectfully requests a trial by jury.



Defendants David B. Livingston
 and Alabama Bonding Company may
 be served through the Sheriff of
 Montgomery County, Alabama, at:
 Alabama Bonding Company
 Montgomery, Alabama

FILED

APR 22 1971

Defendant Resolute Insurance
Company may be served by
service on the Superintendent
of Insurance, Montgomery,
Alabama.

EXECUTED BY SERVING
A COPY OF THE WITHIN

Dated 2. 2. 1937 at Montgomery, Ala.
W. L. Rouse
Sgt. Ala. Banding Co.

This the 30 day of April

M. S. BUTLER
Sheriff Montgomery County

By J. D. Mathis
Deputy Sheriff

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

J. D. Mathis Deputy Sheriff

MRS. W. A. BROWDER,

Plaintiff

-VS-

DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY,
a corporation, and
RESOLUTE INSURANCE COMPANY,
a corporation,
jointly and individually,

Defendants

IN THE CIRCUIT COURT OF


BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9799

AFFIDAVIT

I, Kenneth Cooper, as one of the attorneys of record for defendant David D. Livingston in the above-styled cause, hereby certify that the oral deposition of Mrs. W. A. Browder and Alice B. Shirah are needed in the above case on the legal ground that each is a woman and that each is a material witness. It is requested that Mrs. W. A. Browder and Alice B. Shirah be subpoenaed to appear at 2:00 p.m. on Friday, August 4, 1972, in the Law Library of Baldwin County Courthouse, at Bay Minette, Alabama.


ATTORNEY FOR DEFENDANT
DAVID D. LIVINGSTON

Sworn to and subscribed before me on this the twenty-sixth day of July, 1972.

My Commission Expires:
~~October 6, 1974~~


NOTARY PUBLIC
STATE AT LARGE, STATE OF ALABAMA

JAMES D. STRAITON
ATTORNEY AT LAW
P. O. BOX 4292
SUITE 500-504, BELL BUILDING
MONTGOMERY, ALABAMA 36104
TELEPHONE 262-6629

July 20, 1972

Honorable Telfair Mashburn
Circuit Court Judge
Circuit Court of Baldwin County
Bay Minette, Alabama

Re: Browder vs. Livingston, Case No. 9799
Shirah vs. Livingston, Case No. 9800

Dear Sir:

The Honorable Bob Kendall and I have agreed with the Court's concurrence to continue these causes to the next term. With this in mind, I have prepared appropriate motions and orders for continuances in the above cases. If it is necessary for me to prepare additional motions, or to do anything further, please feel free to contact me, collect, at the above telephone number.

With kindest regards,

Yours very truly,


JAMES D. STRAITON

JDS:jf

cc: Honorable Kenneth Cooper
107 East First Street
Bay Minette, Alabama

MRS. W. A. BROWDER,

Plaintiff

-VS-

DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY,
a corporation, and
RESOLUTE INSURANCE COMPANY,
a corporation,
jointly and individually,

Defendants

IN THE CIRCUIT COURT OF

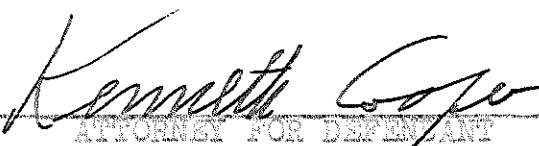
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9799

AFFIDAVIT

I, Kenneth Cooper, as one of the attorneys of record for defendant David D. Livingston in the above-styled cause, hereby certify that the oral deposition of Mrs. W. A. Browder and Alice B. Shirah are needed in the above case on the legal ground that each is a woman and that each is a material witness. It is requested that Mrs. W. A. Browder and Alice B. Shirah be subpoenaed to appear at 2:00 p.m. on Friday, August 4, 1972, in the Law Library of Baldwin County Courthouse, at Bay Minette, Alabama.


ATTORNEY FOR DEFENDANT
DAVID D. LIVINGSTON

Sworn to and subscribed before me on this the twenty-sixth day of July, 1972.

My Commission Expires:
October 6, 1974

NOTARY PUBLIC
STATE AT LARGE, STATE OF ALABAMA

MRS. W. A. BROWDER,

Plaintiff

-VS-

DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY,
a corporation, and
RESOLUTE INSURANCE COMPANY,
a corporation,
jointly and individually,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9799

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to summon Mrs. W. A. Browder and ~~ALICE B. SHIRAH~~ personally to be and appear before Kenneth Cooper, as attorney for David D. Livingston, at 2:00 p.m. on Friday, August 4, 1972, in the Law Library of the Baldwin County Courthouse, at Bay Minette, Alabama, until discharged by due course of law, to give evidence and the truth to speak in behalf of the defendant David D. Livingston in a cause now pending in said court wherein Mrs. W. A. Browder is plaintiff and the said David D. Livingston is defendant, and have you then and there this writ and with you endorsement thereon.

Witness my hand this 28 day of July, 1972.

Ernie B. Blackman

CIRCUIT CLERK

Mrs. W. A. Browder - address: Stillwood.

CASE NO. 9799

✓

MRS. W. A. BROWDER, Plaintiff

VS

DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY,
a corporation, and
RESOLUTE INSURANCE COMPANY,
a corporation,
jointly and individually, Defendants

RECEIVED
JUL 31 1972
TAYLOR WILKINS
SHERIFF

Received 31 day of July 1972
and on 1 day of August 1972

I served a copy of the within Summons
on Alice Shirah; Mrs.
W.A. Browder

By service on Alice Shirah W.A. Browder
Alice Shirah

TAYLOR WILKINS, Sheriff
By C.W. Lodkin D. S.

Sheriff claims 0 miles at
Ten Cents per mile Total \$ 0
TAYLOR WILKINS, Sheriff
BY C.W. Lodkin
DEPUTY SHERIFF

1. Sims, Joel A., Farmer, Rabon, Alabama
2. Slaughter, Wm. E., V-Pres Bacon McMillan, Pensaw, Star Rt. A Stockton P1
3. Leigh, Calvin D., Agt. Life of Georgia Ins., 361 Gaston Av. Fairhope P2
4. ~~Kane, Wm. A., Supvr. Eastwood Nealy, 5 Ranger Rd. Spanish Fort, Bay Minette~~
5. ~~Chandler, Al., Jr., Smm. Baldwin Times, Silverhill, Bay Minette~~
6. Burt, Joyce, Housewife, Rt. 2 Box 20, Bay Minette
7. Gilbert, B. B., County Garage Mechznic, 104 W. Magnolia St. Bay Minette
8. Bell, Bennie, Farmer, Rt. 1 Perdido, Alabama D2
9. Bates, Charles L., Jr., Acct. Bittner Ind. 33 Caisson Trace, Spanish Fort
10. ~~Hantley, Dewey L., Kaiser Almn. 1900 McMillan, Bay Minette~~
11. ~~Mummerslyn, Elmer, Laborer, Star Rt. A Stockton, Alabama~~
12. Robinson, Harold C., Electn. Scott Paper Co. 100 Berglin St. Fairhope, Mobile
13. ~~Poser Walter L., Mgr. Poser Printing Co. 451 Boone La. Fairhope P4~~
14. Quinley, Nora G., Smstrs. Bay Slacks 206 N. White Av. Bay Minette
15. Ponder, Jack, Plumbing Contr. Box 96, Fairhope P3
16. Bryars, Ewing E., Mobile Reserve Fleet, 207 Clay St. Bay Minette P4
17. Burden, Douglas, Survey Tech F'Hope Title & Survey, Montrose, Fairhope D1
18. ~~Bryant, Prentis, Laborer Newport Ind., 807 Daphne Rd. Bay Minette~~
19. ~~Corbett, Howard Dan Leigh Kiasser Plant, 403 Moran St. Bay Minette~~
20. ~~Simmons, Kenneth J., Exec. Pilot Cont. Mers. 125 Confederate Dr. Spanish Fort, Mobile~~
21. ~~Webb, Elroy, Eng. Ala. St. Dock, 203 Spanish Main St. Spanish Fort, Mobile~~
22. White, Harold A., Hales M.F. G. Co. Box 137 Foley,
23. ~~Payne, Maxwell W., Housewife, 1601 Armstrong Av. Bay Minette~~
24. ~~Brabner, Martin J., Jr., South Central Bell, Rt. 2 Bay Minette, Mobile~~
25. Sanks, Sarah, Clk. Tax Assec. 607 Moog Av. Bay Minette D3
26. ~~Lutner, Francis, Jr., Kaiser Almn., 1104 N. White Av. Bay Minette~~
27. ~~Wilson, A. Robert, Wilson's Pure Station, Wilson Dr. Spanish Fort,~~
28. ~~Ward, John E., Tech. Int. Paper Co., 121 Spanish Main St. Spanish Fort, Mobile~~
29. Childs, Jack F., Dept. Supt Warrior & Gulf Navigation, 131 Pineridge Rd. Daphne
30. Barnett, John E., St. Regis Paper Co., Rt. 4 Box 180 B Cantonment, Fla. Bay Minette
31. Moore, Byrd, III, Engineer, 151 Blue Island Ave. Fairhope P5
32. Watts, Evelyn, Clerk, Bay Minette D4
33. Bryars, Dollie, Clerk, Bay Minette P6
34. Brown, Hilary, Retired, Bay Minette
35. Dean, Marvin A., Newport, Bay Minette
36. Hall, Orvin, " "
37. Reid, Bernice, Bookkeeping. Bay Minette

24
19
5/12/6

-P XXXXX X

10 XXXXX X

MAY 10 1973

Certified Copy

GP-Q No

612

and that no tax was collected. Recorded in

Book 29 Page 211

QUALIFYING POWER OF ATTORNEY

By KNOW ALL MEN BY THESE PRESENTS: That RESOLUTE INSURANCE COMPANY, a Rhode Island Corporation,
having its principal office at 163 Asylum Street, Hartford, Connecticut, does hereby make, constitute and appoint
Hoke Smith

in the City of Bay Minette, County of Baldwin, State of Alabama,
with limited authority, its true and lawful Agent and Attorney-in-Fact, with full power and authority hereby
conferred, to sign, execute, acknowledge, and deliver for and on its behalf as Smith subject to the limitation
as herein set forth, any and all papers and documents necessary to make, execute, seal and deliver for and
on its behalf, and as its act and deed:

bonds and undertakings in behalf of court fiduciaries, who under the jurisdiction of a court, administer property
hold in trust; public official bonds; license and permit bonds; tax, lien and miscellaneous bonds required by Fed-
eral, State, County, or Municipal Authority, provided that the liability of the company as surety on any such bond
executed under this authority shall not in any event exceed the sum of

TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) on any one bond.

GP-Q No 612
THIS POWER VOID IF ALTERED OR ERASED

PROVIDED individual power of attorney be attached to each bond executed, but may be detached by the
approving officer, if desired; OR PROVIDED, bond form approved by the RESOLUTE INSURANCE COMPANY
countersigned by an officer of the company (President, Vice-President, Secretary, Treasurer or Assistant Sec-
retary) and approved as to form by the court or jurisdiction to which offered, is executed by said above-named
lawful Agent and Attorney-in-Fact.

The acknowledgement and execution of any such document by the said Attorney-in-Fact shall be as binding
upon this Company as if such bond has been executed and acknowledged by the regularly elected officers of
this Company.

All authority hereby conferred shall expire and terminate without notice, at midnight on December 31, 1973
RESOLUTE INSURANCE COMPANY further certifies that the following is a true and exact copy of a resolution
of the Board of Directors of RESOLUTE INSURANCE COMPANY, duly adopted and now in force, to wit: "All
bonds of the Corporation shall be executed in the corporate name of the Company by the President, any Vice-
President, or by such other officers as the Board of Directors may authorize. The President, any Vice-President,
or any Assistant Secretary may appoint Attorneys-in-fact or agents, who shall have authority to issue bonds in
the name of the company."

IN WITNESS WHEREOF, the said RESOLUTE INSURANCE COMPANY has caused these presents to be exe-
cuted by its Secretary this 21st day of September, 1970

RESOLUTE INSURANCE COMPANY



By

Secretary

**THIS POWER DOES NOT AUTHORIZE THE EXECUTION OF
CONSTRUCTION CONTRACT BONDS OR BONDS FOR LOAN GUARANTEES**

State of Connecticut }
County of Hartford } ss.

On this 21st day of September, 1970, before me, a Notary Public, personally

appeared J. E. PEASE who being by me duly sworn, acknowledged that
he signed the above Power of Attorney as Secretary of the said RESOLUTE INSURANCE COMPANY and ac-
knowledged said instrument to be the voluntary act and deed of said corporation.

My Commission expires April 1, 1971

Notary Public, Connecticut

STATE OF ALABAMA
Baldwin County

PROBATE COURT

I, HARRY D'OLIVE, Judge of Probate Court in and for said State and County, hereby
certify that the within and foregoing _____ one (1) _____ pages

contain a full, true and complete copy of the _____ Power of Attorney of RESOLUTE IN-
SURANCE COMPANY and HOKE SMITH as recorded in Misc. Book 24,
page 211

as the same appears of record in my office.

Given under my hand and seal of office, this _____ 10th _____ day of _____ May _____, 19 _____ 73



Judge of Probate

By _____
CHIEF CLERK

JAMES D. STRAITON
ATTORNEY AT LAW
P. O. BOX 4292
SUITE 500-504, BELL BUILDING
MONTGOMERY, ALABAMA 36104
—
TELEPHONE 262-6629

July 16, 1971

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

Re: Alice B. Shirah vs.
David D. Livingston,
et al., Case No. 9800

Mrs. W. A. Browder vs.
David D. Livingston,
et al., Case No. 9799

Dear Mrs. Blackmon:

Enclosed please find an Answer in each of
the above cases which I would like for you to place
in the case file. Please notify me of the Court
calendar; in particular, notify me of any pleading
dates and of the date of trial.

With kindest regards,

Yours very truly,

A handwritten signature in cursive script that reads "Jim".

JAMES D. STRAITON

JDS:jf

Enclosures

JAMES D. STRAITON
ATTORNEY AT LAW
P. O. BOX 4292
SUITE 500-504, BELL BUILDING
MONTGOMERY, ALABAMA 36104
—
TELEPHONE 262-6629

May 20, 1971

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

Re: Mrs. W. A. Browder vs.
David D. Livingston
Case No. 9799


Alice B. Shirah vs.
David D. Livingston
Case No. 9800

Dear Mrs. Blackmon:

Enclosed please find the original of a Demurrer which I would like for you to file in each of the above causes. Please note me as Attorney of Record for the Defendants, and forward all correspondence in this matter to me at the above address. I thank you for your cooperation.

With kindest regards,

Yours very truly,


JAMES D. STRAITON

JDS:jf

Enclosures

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9799

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon David D. Livingston, Alabama Bonding Company,
a corporation and RESOLUTE INSURANCE COMPANY, A Corporation, Jointly & Individually

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 DAVID D. LIVINGSTON,
ALABAMA BONDING COMPANY, A Corp., and RESOLUTE INSURANCE COMPANY, A Corporation,
jointly & Individually Defendant.

by MRS. W. A. BROWDER

Plaintiff.

Witness my hand this 22nd day of April 1971.

Janice L. Blackmon Clerk

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

MRS. W. A. BROWDER

Plaintiffs

vs.

DAVID D. LIVINGSTON, ALABAMA BONDING
CO., A CORP., & RESOLUTE INSURANCE
CO., A CORP., Jointly & Individually
Defendants

SUMMONS AND COMPLAINT

Filed April 22, 1971.

Eunice B. Blackmon Clerk

Johnston, Johnston & Kendall
P. O. Box 550- Mobile

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

APR 24 1971 Office

M. S. BUTLER, Sheriff

1971

(Taylor Wilkema) Sheriff

I have executed this summons

this 19.....

by leaving a copy with

Executed by serving 2 copies of

the within on John Bookout

Superintendent

of Insurance, State of Alabama

This The 28 day of Apr. 1971

Sheriff of Montgomery County

M. S. Butler,

By W. L. Meyer D. S.

M. S. Butler, Sheriff of Montgomery

County, Alabama, Claim \$1.50 each for

serving process and \$1.00

travel expense on each of

processes as a total of \$2.50

Sheriff

W. L. Meyer Deputy Sheriff

May 17 1975
Bay Minette, Ala.,

To the Sheriff of Mobile County, Alabama

I enclose herewith Citation in Appeal
for Johnston, Johnston + Kendall
P.O. Box 530, 210 Van Antwerp
Bldg. Mobile, Ala. 36604

Please serve and return as early as possible.

Jayla Wilkins
Sheriff, Baldwin County, Alabama

(If not found in your county, please advise promptly giving information as to present location if possible)

REC'D SHERIFF DEPT
MOBILE COUNTY, ALA.

MAY 18 8 50 AM '73

BY _____