140

The State Bank of Foley	)	Circuit Court, Baldwin County, Alabama,
	)	
vs.	)	
	)	In Equity.
G. L. Barnes and	)	
Gertrude M. Barnes	)	

This cause is submitted for final decree on the following note of testimony and agreement by the Solicitors for the parties: ~~on the following~~

Complainant submits as evidence,

The original Bill and admissions in Answer.

Defendants submits on,

Answers of Defendants, depositions of,

G. L. Barnes and Gertrude M. Barnes,

Depositions of, Victor Jurkiewiez, and Herbert Starkey.

It is hereby agreed by and between the Solicitors of the parties that in any decree rendered in this cause the Complain- ~~shall~~ and shall not be taxed with the costs of the deposition of G. L. Barnes and Gertrude M. Barnes, but the same shall be taxed against the defendants. This Dec. 18th 1920.

Wm S Anderson

Solicitor for Complainant.

Rickarby & Beche

Solicitors for Defendants.

7

agreement to
Submit

Filed Dec 18/920
T W Brennan
Register

agreement to
Submit

STATE OF ALABAMA,)
BALDWIN COUNTY.)

Circuit Court of Baldwin County, Alabama.

IN EQUITY.

STATE BANK OF FOLEY

-Vs-

G. L. BARNES, and

GERTRUDE M. BARNES.

To WILLIAM S. ANDERSON, Solicitor of Record for Complainants .

Take notice that Rickarby, Frazer, & Beebe, Solicitors of Record for the Defendants in said cause have this day made application to the Register for Commission to take the deposition of HERBERT STARKEY, and VICTOR JURKEIWIECZ, both of whom reside at Foley, as witnesses for the Defendants in the above styled cause and they suggest Irma Pope as a suitable person to act as Commissioner.

G. W. Richerson
Register

I hereby accept service
of within notice
and consent that
motion be heard
April 16, 1920
N. S. McCelm

Filed April 15th 1920
D. W. Kilmorn
Register

TO WILLIAM S. ANDERSON, esquire.

On Friday, April 9th, 1920, at Foley, Alabama, at ten O' clock A. M., we shall examine HERBERT STARCKEY and VICTOR JURKIEWIEZ, of Foley, Alabama, as witnesses for the defendants, in the case of STATE BANK OF FULEY, a corporation, against GERTRUDE M. BARNES, and GEORGE L. BARNES, pending in the Circuit Court of Baldwin County, Alabama, in Equity, before Irma Pope, Commissioner, appointed by the Register on the 30th day of March, 1920.

Rickarby & Rogers & Beebe
Solicitors for defendants -

Copy of above notice handed W S Anderson Solicitor for Complainant April 6. 1920.

N O Beebe Solicitor for Defendants -

REGISTRY RETURN RECEIPT.

Form 1548.

Received from the postmaster registered article, the original number of which appears on the reverse side of this card.

Date of delivery 17, *191*____

(To be filled in by person signing receipt.)

When delivery is made to an agent of the addressee, both addressee's name and agent's signature must appear in this receipt.

(Signature or name of addressee.)

(Signature of addressee's agent.)

Registered matter, the delivery of which has not been restricted by the sender or the addressee, is deliverable to any responsible person who customarily receives the ordinary mail of the addressee. (See sec. 935, P. L. and R.)

When the above receipt has been properly signed, it must be postmarked with the name of delivering office and actual date of delivery and mailed to its address, without envelope or postage.

Post Office Department

OFFICIAL BUSINESS

Original Reg. No. 1023

Filed Dec 20th 1918 Registered Letter

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

Postmark of Delivering Office and Date of Delivery.

RETURN TO: J. M. Richardson Clerk

(Name of sender.)

Street and Number, or Post Office Box, _____

Post Office at Rappannock

County _____, State Ga.

The postmaster who delivers the registered article must see that this card is properly signed, legibly postmarked, and mailed to the sender, without envelope or postage.

REGISTRY RETURN RECEIPT.

Form 1548.

Received from the postmaster registered article, the original number of which appears on the reverse side of this card.

Date of delivery 12/7, *191*___
(To be filled in by person signing receipt.)

Mrs G L Lawrence
(Signature or name of addressee.)

When delivery is made to an agent of the addressee, both addressee's name and agent's signature must appear in this receipt.

(Signature of addressee's agent.)

Registered matter, the delivery of which has not been restricted by the sender or the addressee, is deliverable to any responsible person who customarily receives the ordinary mail of the addressee. (See sec. 935, P L. and R.)

When the above receipt has been properly signed, it must be postmarked with the name of delivering office and actual date of delivery and mailed to its address, without envelope or postage.

Post Office Department

OFFICIAL BUSINESS

Original Reg. No.

1096

Filed 12/10-18
For Richmond
Register

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

Postmark of Delivering Office

FREDERICK MD.
DEC 7
8 30
1918
M.

and Date of Delivery.

RETURN TO:

J. W. Rudersdorf, Clerk
(Name of sender.)

Street and Number, or Post Office Box, }

Post Office at Rippon

County, State

The postmaster who delivers the registered article must see that this card is properly signed, legibly postmarked, and mailed to the sender, without envelope or postage.

206 Griswold St.
Detroit, Mich.
Sept 2, 1920.

J. W. Richerson,
Clerk Circuit Court,
Bay Minette, Ala.

Dear Sir:

Herewith enclosed please find interrogatories, cross interrogatories and answers which I trust are satisfactory.

Fees in this matter are as follows:

Commissioner	15.00
Witnesses	2.20
Stenographer	2.00
	$19.20

Very truly,
Willis B. Goodenow

The State Bank of Foley, a corporation,	)	In the Circuit Court of Baldwin County, Alabama.
vs.	)	In Equity.
G. L. Barnes and Gertrude M. Barnes.	)	

Now comes the Complainant in the above stated cause and demurs to the Cross Bill filed by Respondent, G. L. Barnes, and for grounds of demurrer, says:-

1st. That there is no equity in said Cross Bill.

2nd. Because the matters set up in said Cross Bill are res judicata.

3rd. Because said Respondent, G. L. Barnes, in his answer admits that he executed the said two promissory notes for $500. each, that a suit was instituted by the complainant, as the holder of said notes against him in the Circuit Court of Baldwin County and a judgment recovered against him in said Court on said notes, so that all defenses he may have had were adjudicated by said Court.

4th. The allegations that said notes were obtained by misrepresentations, that the consideration for said notes had failed or was wanting, and that said Bank was not an innocent holder for value, even if properly set out were all matters that were adjudicated, or could have been adjudicated in the Circuit Court of Baldwin County, when said cause was tried.

5th. Because the ~~allegations~~ admissions in the Answer and Cross Bill, that a suit was instituted against the said G. L. Barnes in the Circuit Court of Baldwin County, Alabama, by the State Bank of Foley on said two promissory notes executed by him and a judgment rendered by said Court against him in favor of said State Bank of Foley, show, that the defensive matters set out in his cross bill were adjudicated by that Court, or could have been adjudicated, and he is now estopped from making such defense to said judgment.

Wm. S. Anderson

Solicitor for Complainant

State Bank of Foley

vs.

G. L. Barnes &
Gertrude M. Barnes

Demurrer to Cross Bill -

Filed 1/15-1919
T. W. Richerson
Register

Demurrer to bill

RICKARBY & BEEBE
LAWYERS
ARCADE BUILDING

ELLIOTT G. RICKARBY
W. C. BEEBE

BAY MINETTE, ALA. February 15, 1921.

Hon. John D. Leigh,

Brewton, Alabama

Dear Sir:-

In the latter part of December I left with you the case of the State Bank of Foley vs. G. L. and Gertrude M. Bonds, submitted for final decree.

At your convenience I would appreciate your going into the matter and rendering decree. We represent the defendant. It will be noted that the complainant has taken no testimony, and admitted that we are entitled to a decree dismissing the decree.

Yours truly,

W. C. Beebe

WCB/B

T. W. RICHERSON
CLERK AND REGISTER CIRCUIT COURT
BALDWIN COUNTY, ALA.

BAY MINETTE, ALA., March 3rd, 1921.

Hon. John D Leigh,
Brewton, Alabama.

Dear Sir:

Enclosed find papers in cause of Wheeler vs Wheeler ready for submission.

Yours truly..

T. W. Richerson

State Bank of Foley)
) Circuit Court of Baldwin County, Alabama.
vs.)
) In Equity.
G. L. Barnes and)
Gertrude M. Barnes)

Brief for Complainant on Demurrers to Cross Bill of G. L. Barnes.

The Cross Bill seeks to set aside and cancel a certain judgment rendered by the Circuit Court of Baldwin County on Nov.19th. 1915 in a suit brought by Complainant on two notes executed by the said G. L. Barnes.

Barnes admits in his answer that he executed the two notes, that the suit was brought against him and judgment thereon by the Court on Nov.19,1915.

The Sixth paragraph of his Answer seems to constitute his Cross Bill. In that he sets out various defensive matters to the right of Complainant to recover on said notes.

All of these defenses were or could have been set up in the Circuit Court. It hardly seems necessary to cite authorities to support the proposition, that such judgment as he admits was rendered by the Circuit Court is final between the parties to that suit.

In the case of Tankersly,Admr vs. Pettis 71 Ala.185,

Judge Brickell says, "No principle of law is better settled,than that the judgment of a court of competent jurisdiction, rendered on the merits, as between the parties, is final and conclusive of the matters in controversy, so long as it remains unreversed".

He also cites in the same opinion from Wells' Res Adjudicata, secs. 248-9, "A judgment is conclusive of the entire subject matter of controversy, of all that properly belongs to it-- of all that might and ought to have been litigated and decided".

Respectfully submitted,

Thos S. Anderson

Solicitor for Complainant

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State Bank of Foley

vs.

G. L. Barnes et al

Brief for Complt on Demurrer to Cross Bill

Filed 3/3/1919
T. M. Bluemner
Register

After 5 days return to
T. W. Richerson
Clerk of the Circuit Court and
Register in Chancery
Bay Minette, Ala.

GREENVILLE
MAR 1
1 -PM
1919
ALA.

T.W.Richerson

Bay Minette, Ala.

AFTER FIVE DAYS RETURN TO
RICKARBY, FRAZER & BEEBE
LAWYERS
BAY MINETTE, ALA.

Registered

Recept 16

REGISTERED
NO. 1644

Mr. T. W. Richerson, Register,

Bay Minette, Alabama.

Filed
Nov 30th 1920
T. W. Richerson
Register

1644

State Bank of Foley
vs
G.L. & Gertrude M. Barnes

Depositions of Herbert Staekey
and Victor Jurklewicz,
witnesses for defendants.

U.S. POSTAGE 2 CENTS

U.S. POSTAGE 2 CENTS

U.S. POSTAGE 2 CENTS

Irma Pape,
Commissioner.

Irma Pape,
Commissioner.

Irma Pape,
Commissioner.

WILLIAM S. ANDERSON
ATTORNEY AND COUNSELOR AT LAW
BAY MINETTE, ALABAMA

February 5th 1919

Hon. A. E. Gamble,

Greenville, Ala.,

Dear Judge:-

In the case of State Bank of Foley vs Barnes et al. I am enclosing a short Brief on Demurrers to the Cross Bill of G. L. Barnes. By written agreement of counsel for the parties the case was to be submitted to you on next Saturday, Feby 8th.

I intended to send a brief with the papers, but the Clerk sent off the papers before I had prepared my brief, therefore I am sending it by letter.

I feel like apologizing for citing only one authority, but in my judgment you will have little difficulty in deciding the matter unless the gentlemen on the other side have authorities which I know not of.

With kindest regards, Yours very truly,

Wm S. Anderson

8564 APPLICATION FOR ORAL EXAMINATION. FOR SALE BY GEO. D. BARNARD & CO., ST. LOUIS. S

THE STATE OF ALABAMA,
Baldwin County. } CIRCUIT COURT, IN EQUITY.

State Bank of Foley, a corporation created under the laws of the State of Alabama, complainant Complainant
vs.
G. L. Barnes and Gertrude M. Barnes Defendants } No.

Now comes the defendants by Rickarby, Frazer & Beebe, their Solicitors of Record, and makes application to the Register of said Court to issue a Commission to take the testimony in said cause, or oral examination, of the following named witnesses, who reside within the State of Alabama:

NAME OF WITNESS.	RESIDENCE OF WITNESS.
Herbert Storkey	Foley Ala
Victor Jurkiewicz	" "

And they suggests the name of Irma Pope who resides at BayMinette, Ala as a suitable person to be appointed Commissioner to take the testimony of said witnesses.

This 30th day of March 1920

Rickarby Frazer & Beebe
Solicitor for Defendants

The Applicant for said Oral Examination is hereby required to give in writing 3 days notice thereof, before the examination is taken, to the adverse party, or to W. S. Anderson Solicitor of Record, if either reside in this District, but if neither reside therein, the notice may be given by entry on the Order Book of the Clerk.

T. W. Richmond
Register.

No.....

THE STATE OF ALABAMA,

.....County.

CIRCUIT COURT, IN EQUITY.

APPLICATION FOR ORAL EXAMINATION.

State Bank of Foley

vs.

G P Barnes, et al

Filed in office this 30th day of Dec 1920

D W Rimmer

Register.

State Bank of Foley

vs.

G. L. Barnes and
Gertrude M. Barnes

In Circuit Court of Baldwin County, Alabama

In the matter of the application of the Solicitors for defendants for a Commission to take the testimony of Herbert Starkey and Victor Jurkeiwicz at Foley Alabama, as witnesses for defendants in above stated case, suggesting the name of Irma Pope as a suitable person to act as Commissioner;

Comes the Complainant by its Solicitor and objects to the appointment of Miss Irma Pope as such Commissioner, on the ground that she is the clerk and private Stenographer employed and working in the office of the Solicitors for the defendants. That such relationship makes her incompetent to act as Commissioner in taking the testimony of such witnesses in said case.

W. S. Anderson

State of Alabama)
Baldwin County.) Before me T.W.Richerson, Clerk of the Circuit Court of Baldwin County, Alabama, personally appeared W. S. Anderson, Solicitor for Complainant in the above stated case, who after being by me first duly sworn deposes and says that the facts stated in the foregoing objections to the appointment of Irma Pope as Commissioner to take the depositions of said witnesses are true.

W. S. Anderson

Subscribed and sworn to before me this 16th day of April 1920.

T W Richerson

Clerk Circuit Court, Baldwin County, Alabama.

State Bank of Foley

vs.

B. L. Barnes and
Gertrude M. Barnes

In the matter of the application of the Solicitors for Defendants for a Commission to take the testimony of Herbert Starkey and Vivian Turk wlca at Foley Alabama, as witnesses for defendants in above stated case, and getting the name of Irma Pope as a suitable person to act as Commissioner.

Comes the Complainant by its Solicitor and objects to the appointment of Miss Irma Pope as such Commissioner, on the ground that she is the clerk and private Stenographer employed and working in the office of the Solicitors for the defendants. That such relationship makes her incompetent to act as Commissioner in taking the testimony of such witnesses in said case.

W. S. Anderson

State of Alabama)
Baldwin County.) Before me T.W.Richerson, Clerk of the Circuit Court of Baldwin County, Alabama, personally appeared W. S. Anderson, Solicitor for Complainant in the above stated case, who after being by me first duly sworn, deposes and says that the facts stated in the foregoing objections to the appointment of Irma Pope as Commissioner to take the depositions of said witnesses are true.

W. S. Anderson

Subscribed and sworn to before me this 16th day of April 1920.

T. W. Richerson

Clerk Circuit Court, Baldwin County, Alabama.

State Bank of Foley
vs
B. L. Barnes et al

Filed Apr 16th 1920
T. W. Richerson
Register

THE STATE OF ALABAMA,
Baldwin County. } CIRCUIT COURT, IN EQUITY.

State Bank of Foley a corporation Complainant
vs.
G. L. Barns, et al Defendant
} No.

Now comes the Defendants by Rickarby Frazer & Beebe Solicitor of Record, and makes application to the Register of said Court to issue a Commission to take the testimony in said cause, or oral examination, of the following named witness es., who reside within the State of Alabama:

NAME OF WITNESS.	RESIDENCE OF WITNESS.
Herbert Starkey	Foley Alabama
Victor Jurkiewicz	" "

And they suggests the name of Irma Pope who resides at Bay Minette Ala as a suitable person to be appointed Commissioner to take the testimony of said witness is

This ~~the~~ 14th day of April 1920

Rickarby Frazer & Beebe
Solicitor for Defendants

The Applicant for said Oral Examination is hereby required to give in writing 3 days notice thereof, before the examination is taken, to the adverse party, or to its Solicitors of Record, if either reside in this District, but if neither reside therein, the notice may be given by entry on the Order Book of the Clerk.

D. W. Richerson
Register.

No.....

THE STATE OF ALABAMA,

.....County.

CIRCUIT COURT, IN EQUITY.

APPLICATION FOR ORAL EXAMINATION.

.....

.....

.....

vs.

.....

.....

.....

Filed in office this 14th

day of April 1920

G W Rainwater

Register.

STATE BANK OF FOLEY, a Corporation,
Complainant,

VS.

G. L. BARNES AND GERTRUDE M. BARNES,
Respondents.

NO.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

IN EQUITY.

INTERROGATORIES PROPOUNDED TO G. L. BARNES AND GERTRUDE M. BARNES, WITNESSES FOR RESPONDENTS.

TO G. L. BARNES.

1st. Were you on November 1, 1912, the owner of the SW¼ of the SE¼ of Section 17, Township 7 South, Range 4 East, in Baldwin County? If you say that you were, state when you bought the place and what price was paid for it.

2nd. Did you or not make a deed for this property in favor of Mrs. Gertrude M. Barnes? If so, when was this deed executed, and what was done with it after it was drawn?

3rd. If you say you sold this property to Mrs. Barnes, state what amount was actually paid for same and in what manner this payment was made.

4th. What did you do with the money when you first got it? If you state that you deposited it in the Baldwin County Bank to your own credit, did you get a receipt for same? Is the credit slip dated 11-12-1912, and which is now in the hands of your solicitors the one you received, the receipt reading as follows:

Baldwin County Bank,
Bay Minette, Ala. 11/12/~~19~~1912

To G. L. Barnes,

Your favor of 2 is received. We credit

1700.00.

If you say that this was the case, state positively whether or not that was the identical money that you received from your wife for the purchase of this land.

5th. Please state generally what disposition you made of the $1700.00 thus received.

6th. Was the $1700.00 so received money that you furnished your wife, or was it her individual property? Do you know of your own knowledge where she got it? If so, please state.

7th. Was the deed you gave your wife for this land delivered to her, and is that the deed that was put of record on May 19, 1915, in the Probate Court of Baldwin County?

8th. Was the transaction between yourself and your wife relative to this land a bona fide trade for the actual value expressed in the deed? If you say that it was, state whether or not this was a fair value for the property thus conveyed.

9th. Did you make any other effort to sell the property previously, and, if so, what was the best offer you received?

10th. Are you familiar with land values in that part of Baldwin County in the fall of 1912, and, if so, what experience have you had that would enable you to know the value of lands and real property of the nature of this sold to your wife?

11th. Had any suit been brought against you by complainant at the time you sold the land to your wife?

12th. How many acres were contained in the tract sold, and when did you and your wife move on it? Was it or not your homestead?

13th. If you have stated that you are familiar with that class of land in that neighborhood, state whether or not this tract at the time it was sold would bring $2,000.00.

14th. Did you at the time own any other land in Baldwin County? If so, where it is located and what is its extent, nature and value?

15th. How long did this land continue to be the homestead of yourself and wife, and do you still own it? Is it your homestead now?

16th. State any other facts which to your knowledge will tend to throw light upon the sale referred to above.

TO MRS. GERTRUDE M. BARNES.

1st. Are you one of the respondents in this cause? Are you the grantee named in the deed dated November 1, 1912, wherein Mr. G. L. Barnes deeded you the SW¼ of the SE¼ of Section 17, Township 7 South, Range 4 East, in Baldwin County?

2nd. What was the general nature of the land and property that was conveyed to you, and how did you come to buy it from your husband?

3rd. Please state what you paid for the land, in what shape the payment was made and from what source the money came. Was it your money, or that of your husband that was used for this purpose? Was it or not paid for out of your own separate estate?

4th. Was any suit pending against your husband at the time ghe sale was made?

5th. After the deed was signed by Mr. Barnes, was it or not delivered to you?

6th. What became of the deed between that time and May 9, 1915, when it was put of record? What was the reason of this delay in recording the deed?

7th. Was the land involved that on which you and your husband had been living since 1905? Was it or not your homestead, and for how long did you and he continue to live on it after that date? Are you living on it now, and, if not, who has it in charge for you? Was it or not your homestead when this suit was filed?

8th. Do you own any other property in Baldwin County than this forty? If so, where, how much, and what is ist value?

9th. If you have not already done so, state fully the transaction between yourself and husband involved in this matter, and whether or not the transaction was conducted in good faith between you.

Rickarby Frazier & Beebe.
Solicitors for Respondents.

TO MRS. GERTRUDE M. BARNES.

1st. Are you one of the respondents in this cause? Are you the grantee named in the deed dated November 1, 1912, wherein Mr. G. L. Barnes deeded you the SW¼ of the SE¼ of Section 17, Township 7 South, Range 4 East, in Baldwin County?

2nd. What was the general nature of the land and property that was conveyed to you, and how did you come to buy it from your husband?

3rd. Please state what you paid for the land, in what shape the payment was made and from what source the money came. Was it your money, or that of your husband that was used for this purpose? Was it or not paid for out of your own separate estate?

4th. Was any suit pending against your husband at the time ghe sale was made?

5th. After the deed was signed by Mr. Barnes, was it or not delivered to you?

6th. What became of the deed between that time and May 9, 1915, when it was put of record? What was the reason of this delay in recording the deed?

7th. Was the land involved that on which you and your husband had been living since 1905? Was it or not your homestead, and for how long did you and he continue to live on it after that date? Are you living on it now, and, if not, who has it in charge for you? Was it or not your homestead when this suit was filed?

8th. Do you own any other property in Baldwin County than this forty? If so, where, how much, and what is ist value?

9th. If you have not already done so, state fully the transaction between yourself and husband involved in this matter, and whether or not the transaction was conducted in good faith between you.

Rise Darby Frazer & Beebe.
Solicitors for Respondents.

Respondents suggest that any competent person residing in the city of Detroit, Michigan, be authorized to act as commissioner to take the foregoing testimony. Both witnesses reside at No. 920, Field Avenue, Detroit, Michigan.

Rickerby Frazer & Burke

Solicitors for Respondents.

I hereby accept service of filing of above interrogatories, this 15 day of June, 1920

Wm. S. Rudeson

Solr for Complt.

State Bank of Foley.

vs

G. L. Barnes.

Filed June 15th 1920

T. W. Simmons

Register

State Bank of Foley,
a corporation, Complainant

vs.

G. L. Barnes and
Gertrude M. Barnes, Defendants

In Circuit Court of Baldwin County, Alabama.

In Equity.

Cross Interrogatories to be propounded to G. L. Barnes and Gertrude M. Barnes, by Complainant.

To G. L. Barnes .alone.

Cross Inty.1. Is it not a fact that at the time you made the conveyance to Gertrude M. Barnes, your wife, of the SW¼ of SE¼ of Sec 17 Town 7 South, Range 4 East in Baldwin County, Alabama, that you were indebted to the State Bank of Foley which indebtedness was evidenced by two promissory notes for $500. each, made by you and payable on or before twelve months after date.

Cross Inty.2. Is it not a fact that such deed was dated, Nov.1st. 1912, and that the same was filed for Record by you on May 19, 1915, on the same day the judgment was rendered against you in the Circuit Court of Baldwin County, Alabama, in favor of the State Bank of Foley, for $1378.61. And is it not a fact that you filed said deed for record on the same day and shortly after said judgment had been entered against you.

Cross Inty. 3. Is it not a fact that you made said conveyance to your wife in November 1912, for the purpose of protecting said property from liability for your indebtedness on said two notes for $500. each.

Why was said deed never filed for record until after the judgment was rendered against you.

What was your purpose in conveying said property to your wife? From what source did your wife get this sum of $1700. that you say was paid to you on Nov.1st 1912.

In what shape was this sum of $1700. when it was paid to you by your wife, that is was it in bills or currency, or a check; and if a check on what bank was it drawn.

How long had your wife had this money, when she paid it to you? and from whom had she received it? Was that all she received at that time. Please state fully, how much she received and from whom.

Cross Inty.4. Do you state as an absolute fact that your wife paid you $1700. of her own money for the land you conveyed to her by the Deed dated Nov.1st 1912, and that you never returned her that money or any part of it. Do you say under oath that this sale was a bona fide transaction?

Cross Inty. 5. Are you now a resident citizen of Baldwin County, Alabama?. If not when did you cease to be such resident.

Did you ever file a declaration in the Probate Court of Baldwin County, Alabama, claiming the SW¼ of the SE¼ of Sec 17 Township Seven South, 4 East in Baldwin County, Alabama, as your Homestead. If yea, when did you file such declaration.

To Gertrude M. Barnes, alone.

Cross Inty. 1. If you say you paid your husband, G. L. Barnes, $1700. in money for the property described as the SW¼ of SE¼ of Sec.17 in Township 7 South, Range 4 East in Baldwin County, Alabama, will you please state where you got this money, from whom you received it, and how much you received at that time; was that all you received.

Where was this money deposited, that you paid your husband, before and at the time you paid it to him. Was it deposited in your name.

Cross Inty. 2. Did you know that your husband was going to make you a deed to this property, before the deed was made and executed.

Cross Inty. 3. What was your idea in investing $1700. in property in Baldwin County, that already belonged to your husband.

How long did you live in Baldwin County as your home after you bought the property from your husband.

Cross Inty. 4. Has your husband ever paid you back the money you paid him for this property, or any part of it.

Cross Inty. 5. Do you state under oath, that you actually paid your husband $1700. in money, that belonged to you for this property, and that no part of the same has ever been returned to you.

Do you state under oath, that the conveyance made to you of this property, dated November 1st 1912, was a bona fide transaction, that you actually paid G. L. Barnes $1700. of your own money for this property, and no part of the same has ever been repaid you. And that the purpose of this conveyance was not to protect the property from the claims or debts of G. L. Barnes.

M. S. Anderson

Solicitor for Complainant.

State Bank of Foley

vs

G. L. Barnes and
Gertrude M. Barnes

Cross Entry.

Filed June 23, 1920.
T. O. Richardson
Register

STATE BANK OF FOLEY, a Corporation,
Complainant,

VS.

G. L. BARNES AND GERTRUDE M. BARNES,
Respondents.

NO.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

IN EQUITY.

By virtue of the Commission hereto annexed, issued from the office of the Clerk of the Circuit Court of Baldwin County, State of Alabama, I, the Commissioner therein named, have called and caused to come before me the said Gilbert L. Barnes and Gertrude M. Barnes, the witnesses named in said Commission on this twenty-seventh (27th) day of August, 1920, at the United Savings Bank of Detroit, Detroit, Michigan; and having been duly cautioned and sworn the said witnesses to speak the truth, the whole truth, and nothing but the truth, Gilbert M. Barnes and Gertrude M. Barnes, the said witnesses, deposeth and saith as follows:

TO G. L. BARNES.

First. - To first interrogatory he saith: Yes, 1905, $1000

Second. - To second interrogatory he saith: I did make a deed dated Nov. 1, 1912. It was held in escrow.

Third. - To third interrogatory he saith: $1700, New York Draft.

Fourth. - To fourth interrogatory he saith: Deposited in Baldwin County Bank. Yes. Yes.

Fifth. - To fifth interrogatory he saith: I do not remember.

Sixth. - To sixth interrogatory he saith: No, it was her own money received as proceeds from sale of property in West Chicago, Ill.

Seventh. - To seventh interrogatory he saith: Yes, the same deed.

Eighth. - To eighth interrogatory he saith: Yes, Yes.

Ninth. - To ninth interrogatory he saith: Never received an offer at that time.

Tenth. - To tenth interrogatory he saith: Yes, was in real estate business at the time.

Eleventh. - To eleventh interrogatory he saith: No.

Twelfth. - To twelfth interrogatory he saith: Forty acres, August 1908. Was homestead.

Thirteenth. - To thirteenth interrogatory he saith: I doubt it.

Fourteenth. - To fourteenth interrogatory he saith: No.

Fifteenth. - To fifteenth interrogatory he saith: Eight years. No, no.

Sixteenth. - to sixteenth interrogatory he saith: Nothing to add.

Cross interrogatories to be propounded to G. L. Barnes and Gertrude M. Barnes, by Complainant.

TO G. L. BARNES alone.

First. - To first cross interrogatory he saith: Yes.

Second. - To second cross interrogatory he saith: Yes, yes, yes.

Third. - To third cross interrogatory he saith: No. Personal reasons. In consideration of the $1700 paid to me by her. From the sale of property in West Chicago, Ill. New York Draft. Thirty days. George Phillips. Yes, $1700 George Phillips.

Fourth. - To fourth cross interrogatory he saith: Yes. No I never returned the money to her. Yes.

Fifth. - To fifth cross interrogatory he saith: No. August 1917. No.

G. L. Barnes

I, Willis B. Goodenow, Commissioner in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by me in the words of the witness, G. L. Barnes, were read over to him; that he assented, swore to, and subscribed the same in my presence, at the time and place herein mentioned; that I have personal knowledge of the personal identity of said witness; that I am not of counsel or kin to either of the parties to said cause nor interested in the event thereof. And I enclose the said testimony, together with said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as my full execution of said commission.

Given under my hand and seal, this twenty-seventh (27th) day of August, 1920.

Willis B. Goodenow

Notary Public, Wayne County, Michigan.

My commission expires Oct. 18, 1921

TO MRS. GERTRUDE M. BARNES.

First. - To first interrogatory she saith: Yes, yes.

Second. - To second interrogatory she saith: Farm land, investment.

Third. - To third interrogatory she saith: $1700, New York Draft. Sale of property West Chicago, Ill. Yes it was my money. It was my separate estate.

Fourth. - To fourth interrogatory she saith: No.

Fifth. - To fifth interrogatory she saith: Yes.

Sixth. - To sixth interrogatory she saith: It was held in escrow. Personal reasons.

Seventh. - To seventh interrogatory she saith: Yes. Became homestead until August 1917. No. No one. Yes.

Eighth. - To eighth interrogatory she saith: No.

Ninth. - To ninth interrogatory she saith: This was a bona fide sale.

Cross interrogatories to be propounded to G. L. Barnes and Gertrude M. Barnes by Complainant.

TO GERTRUDE M. BARNES alone.

First. - To first cross interrogatory she saith: George Phillips $1700. Prairie State Bank. Yes.

Second. - To second cross interrogatory she saith: Yes.

Third. - To third cross interrogatory she saith: Had the funds available five years.

Fourth. - To fourth cross interrogatory she saith: No.

Fifth. - To fifth cross interrogatory she saith: Yes, yes, yes, yes, yes, yes, no.

Gertrude M Barnes

I, Willis B. Goodenow, Commissioner in said Commission named do hereby certify that the foregoing testimony and answers, taken down and written by me in the words of the witness, Gertrude M. Barnes, were read over to her; that she assented, swore to, and subscribed the same in my presence, at the time and place herein mentioned; that I have personal knowledge of the personal identity of said witness; that I am not of counsel or kin to either of the parties to said cause nor interested in the event thereof. And I enclose the said testimony, together with said Commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as my full execution of said Commission.

Given under my hand and seal, this twenty-seventh (27th) day of August, 1920.

Willis B. Goodenow

Notary Public, Wayne County, Michigan.

My commission expires Oct 18, 1921

The State of Alabama, } **CIRCUIT COURT.**

Baldwin COUNTY. } Equity Division.

To William Goodenough,

Savings Bank 204 Griswold St,

Detroit Mich.

or such of you as may act herein, of County, State of

Michigan, *Greeting:*

KNOW YE, That we, reposing confidence in your integrity, skill, and ability have appointed you Commissioners to take the testimony of

G.L.Barnes and Gertrude M Barnes,

material witness es *in a suit now pending in our* Circuit *Court of* Baldwin *County, wherein*

State Bank of Foley, a Corporation,

Plaintiff, *and*

G.L.Barnes and Gertrude M Barnes,

*Defendant*s, *and we hereby authorize and empower you to call and cause to come before you* G.L.Barnes and Gertrude M Barnes,

the said witness and a *deposition on the Holy Evangelists to take, as well for the* Complainant *as for the* Defendants *touching* their *knowledge of the matters and things in controversy in said suit, which deposition, when so taken, shall be signed by said witness and certified by such of you Commissioners as may act herein; and you are further commanded, the deposition, when so taken, with this commission, to return under your hands and seals to the Clerk of said Court, with all convenient speed, and any one or more of you Commissioners, are authorized to act alone in the premises.*

Witness my hand, this 23rd *day of* August 1920, *191*

Witness' Fees, - - - $

Commissioners' Fees, $

D. W. Richerson *Clerk.*

No. 140

The State of Alabama

Baldwin County

CIRCUIT COURT,

DIVISION

Equity

State Bank of Foley

vs. Plaintiff

G. L. Barnes and Gertrude M Barnes, Defendant

COMMISSION TO TAKE DEPOSITION ON SEVERAL INTERROGATORIES.

Issued this 23rd day of August 1920 191

G D Pearson Clerk

WITNESSES:

G. L. Barnes

Gertrude M Barnes

MARSHALL & BRUCE CO., NASHVILLE

DIRECTIONS:

TO THE COMMISSIONERS IN EXECUTING AND RETURNING THE COMMISSION.

1. If the time and place of executing the commission are not named therein, the Commissioners will subpoena the witness to appear before them at such time and place as they may appoint, and administer the oath to witness.

2. Either the Commissioners, witness, or some impartial persons, must reduce the answer of witness to writing, as near as may be in the language of the witness.

3. State the caption of the cause at the beginning, and then the following heading or title:

By virtue of the Commission hereto annexed, issued from the office of the Clerk of the Circuit Court of_____ County, State of Alabama, we, the Commissioners therein named, have called and caused to come before us the said A B, the witness named in said commission, on this_____day of_____191__, at the_____; and having duly cautioned and sworn the said witness to speak the truth, the whole truth, and nothing but the truth, A B, the said witness, deposeth and saith as follows:

First.—To first interrogatory he saith:

Second.—To second interrogatory he saith:

First.—To first cross-interrogatory he saith:

4. When the deposition is finished, it must be subscribed by the witness and certified as follows:

We, C D and E F, the Commissioners in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by us in the words of the witness, A B, were read over to him; that he assented, swore to, and subscribed the same in our presence, at the time and place herein mentioned: that we have personal knowledge of the personal identity of said witness [or, if unacquainted with the witness, that proof hath been made before us of the identity of the said witness]; that we are not of counsel or kin to either of the parties to said cause, nor interested in the event thereof. And we inclose the said testimony, together with said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as our full execution of said commission.

Given under our hands and seals, this_____day of_____191__

_____[L. S.]

_____[L. S.]

Next unite the commissions, interrogatories, and answers together, with wafers or tape; second, envelope all, sealed with three seals; third, write each Commissioner's name across each seal; and, fourth, write on the envelope the names of the parties and witnesses, and direct it thus:

C D *v.* E F ____ DEPOSITION OF A B	*To*_____*Esq.*, CLERK OF THE CIRCUIT COURT. _____ _____*County, Ala.*

☞ **The package may by sent by mail or private conveyance.**

The State Bank of Foley,	)	
	)	
vs.	)	In the Circuit Court of Baldwin County,
	)	
G. L. Barnes and Gertrude M. Barnes.	)	In Equity.

This cause is submitted for decree on the Demurrers of Complainant to the Crossbill of Respondent, and, on consideration,

It is ordered, adjudged and decreed that the demurrers to said answer in so far as it purports to be and is the Crossbill of Respondents, be and the same are hereby sustained, and said Crossbill is hereby dismissed unless the Respondent amends the same which he may do within twenty days from this date.

Done at Greenville, Ala. This Mar. 1st 1919.

A. E. Gamble

Judge.

Decree sustaining demurrer ~~to~~ answer as cross-bill

Decree sustaining demurrer as to answer as cross bill

Filed 3/3/1919.
D V Richmond
Register

RECORDED

THE STATE OF ALABAMA, Baldwin COUNTY.

IN CIRCUIT COURT, IN EQUITY.

State Bank of Foley, Complainant

vs.

G. L. & Gertrude M. Barnes Defendant

Irma Pope, Commissioner,

Oral examination before the ~~Register~~ of the following witnesses:

Victor Jurkiewicz & Herbert Starkey,

who reside in Alabama, said examination being conducted in Foley, Alabama, on this the 28 day of April, 1920, and there being present W. C. Beebe, Solicitor for Respondents.

The said Victor Jurkiewicz being first sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

My name is Victor Jurkiewicz, I am 47 years old. My occupation is farming just now. I have farmed since March 1912. I live one mile and one-half north of Foley just across the road from the Barnes place, the same being the SW¼ of the SE¼ Section 17 Township 7 South Range 4 East Baldwin Co. Alabama. I have lived at this place since 1912, with the exception of about one year & one-half during the years 1914, 1915 & 1916. I have known G. L. Barnes & Gertrude M. Barnes since 1912. On November 1, 1912, they were living on the place mentioned above as the Barnes place. They cultivated a part of the place and had it all under fence. It was their homestead.

In November 1912 the place was worth not more than $1900. The house is of practically no value, and was in a dilapidated condition at that time. It has only two rooms, one on the ground floor and one above in the garrett. There were no out-houses and there are none now. We cultivated at that time not more than six or eight acres. The balance of the forty was cut-over wild land. The place to-day is in worse condition than it was in 1912. The fencing has rotted down, and the house is ready to tumble down from decay. There is now about 18 acres cleared, it having been cleared a little from year to year. The place is not now worth more than $1800 to $2000. It is not worth over $2000. I refused to pay $1800 for it about three weeks ago. While I was away during the years 1914 & 1915 I corresponded with G. L. Barnes addressing him at Foley during which time in his letters he referred to his crops on the place and when I returned found him still living at the place. At no time during the period from March 1912 has the place been worth more than $1800 to $2000. Barnes moved off of the place in the latter part of the summer 1917. We lived there during the entire period I have been from 1912 to 1917. The above facts in regard to the value of the place are based upon my knowledge of the place and of sales of land in the vicinity of this place.

Victor Jurkiewicz

Herbert Starbey being first sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

COMMISSION TO TAKE DEPOSITION. [redacted] (Box 649.) MARSHALL & BRUCE CO., NASHVILLE

The State of Alabama, Baldwin COUNTY. } **CIRCUIT COURT.** Equity Division.

To Irma Pope

or such of you as may act herein, of Baldwin County, State of Alabama, Greeting:

KNOW YE, That we, reposing confidence in your integrity, skill, and ability have appointed you Commissioners to take the testimony of Herbert Starkey, and Victor Jurkiewicz of Foley Alabama

*material witness*es *in a suit now pending in our* Circuit *Court of* Baldwin *County, wherein* State Bank of Foley, a corporation created under the laws of the State of Alabama is *Plaintiff*, *and* G.L.Barnes and Gertrude M.Barnes are *Defendant*s, *and we hereby authorize and empower you to call and cause to come before you*

*the said witness*es *and* thier *deposition*s *on the Holy Evangelists to take, as well for the* Plaintiff *as for the* Defendants *touching* thier *knowledge of the matters and things in controversy in said suit, which deposition, when so taken, shall be signed by said witness*es *and certified by such of you Commissioners as may act herein; and you are further commanded, the deposition, when so taken, with this commission, to return under your hands and seals to the Clerk of said Court, with all convenient speed, and any one or more of you Commissioners, are authorized to act alone in the premises.*

Witness my hand, this 19th *day of* April *19*20

Witness' Fees, - - - $

Commissioners' Fees, $ D.W.Richerson *Clerk.*

No. .....

The State of Alabama, ... County.

CIRCUIT COURT, ... **DIVISION.**

Henry Brubaker

Plaintiff,

vs.

A. P. Stearns

Defendant.

COMMISSION TO TAKE DEPOSITION ON SET INTERROGATORIES.

Issued this 30th *day of* March *1912*

D. M. Patterson *Clerk.*

WITNESSES:

Hubert Hartley

Victor Hurlburt

MARSHALL & BRUCE CO., NASHVILLE

DIRECTIONS:

TO THE COMMISSIONERS IN EXECUTING AND RETURNING THE COMMISSION.

1. If the time and place of executing the commission are not named therein, the Commissioners will subpoena the witness to appear before them at such time and place as they may appoint, and administer the oath to witness.

2. Either the Commissioners, witness, or some impartial persons, must reduce the answer of witness to writing, as near as may be in the language of the witness.

3. State the caption of the cause at the beginning, and then the following heading or title:

By virtue of the Commission hereto annexed, issued from the office of the Clerk of the Circuit Court of_____ County, State of Alabama, we, the Commissioners therein named, have called and caused to come before us the said A B, the witness named in said commission, on this_____day of_____191__, at the_____; and having duly cautioned and sworn the said witness to speak the truth, the whole truth, and nothing but the truth, A B, the said witness, deposeth and saith as follows:

First.—To first interrogatory he saith:

Second.—To second interrogatory he saith:

First.—To first cross-interrogatory he saith:

4. When the deposition is finished, it must be subscribed by the witness and certified as follows:

We, C D and E F, the Commissioners in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by us in the words of the witness, A B, were read over to him; that he assented, swore to, and subscribed the same in our presence, at the time and place herein mentioned; that we have personal knowledge of the personal identity of said witness [or, if unacquainted with the witness, that proof hath been made before us of the identity of the said witness]; that we are not of counsel or kin to either of the parties to said cause, nor interested in the event thereof. And we inclose the said testimony, together with said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as our full execution of said commission.

Given under our hands and seals, this_____day of_____191__

_____[L. S.]

_____[L. S.]

Next unite the commissions, interrogatories, and answers together, with wafers or tape; second, envelope all, sealed with three seals; third, write each Commissioner's name across each seal; and, fourth, write on the envelope the names of the parties and witnesses, and direct it thus:

C D *v.* E F —— DEPOSITION OF A B	*To*.....*Esq.*, CLERK OF THE CIRCUIT COURT. ....*County, Ala.*

☞ **The package may by sent by mail or private conveyance.**

DEPOSITION TAKEN BEFORE REGISTER ON ORAL EXAMINATION, Code 3139. (Box 715.) 85605 MARSHALL & BRUCE CO., NASHVILLE

THE STATE OF ALABAMA, ... COUNTY.

IN CIRCUIT COURT, IN EQUITY.

.....Complainant

vs.

.....Defendant

Oral examination before the Register of the following witnesses:

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who reside in Alabama, said examination being conducted in.....Alabama, on this the.....day of....., and there being present.....

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The said.....being first sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

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My name is Herbert Starkey.
I am 38 years old. I ~~ha~~ live 2½ miles north of Foley, about 1 mile from the Barnes place, it being the SW¼ of SE¼ of Section 17, Township 7 South, Range 4 East, containing 40 acres in Baldwin Co. Ala. I have lived there since 1913, since which time I have known G. L. & Gertrude M. Barnes, and have known their place described above. They lived on said lands since I first knew them in 1913 to 1917, about Aug. when they moved away. On May 19, 1915 they lived on and used as their homestead said lands. On that date the lands were not worth over $1700 or $1800. It is worth not over $1900 now. at no time since I have known the place has it been worth over $1900, ~~the~~ When I first knew the place it had the same buildings it has now, a two-room log house used as a residence, and a small cheap barn. In 1913 there were about 10 acres cleared and from time to time small parcels have been cleared so that now there is about 17 or 18 acres cleared. Fencing is rotted down, and on May 19, 1915 the fencing was in poor condition. The houses were in a rotted condition.

Herbert Starkey

I, Irma Pape, as Commissioner named in the annex Commission hereby certify that the foregoing deposition~~s~~ on oral examination were taken down by me in writing in the words of the witness~~es~~ and read over to them and they signed the same in ~~the~~ my presence ~~of~~, at the time and place herein mentioned; that I ~~have personal knowledge of the personal identity of the said witness~~, or had proof made before me of the identity of said witness~~es~~; that I am not of counsel or of kin to any of the parties to said cause; or in any manner interested in the result thereof. That each of said witnesses were duly sworn by me. That W. C. Leeds attended said examination on the part of defendants.

I enclose the said Oral Examination in an envelope to the Register of said Court, ~~and placed the same on file in my office~~.

Given under my hand and seal this the 28th day of April, 1920

Irma Pape (L. S.)

WITNESS FEES.

I hereby certify that the following named witnesses are entitled to the amounts stated below:

Herbert Starkey	days' attendance at $1.50 per day	$1.50
Victor Jurkiewicz	days' attendance at $1.50 per day	$1.50
	days' attendance at $1.50 per day	$
	days' attendance at $1.50 per day	$
	days' attendance at $1.50 per day	$
	days' attendance at $1.50 per day	$
	days' attendance at $1.50 per day	$
	days' attendance at $1.50 per day	$
	days' attendance at $1.50 per day	$

~~REGISTER'~~S Commissioners FEES.

One days at $1.50 per day		$1.50
1000 words at 20 cents per hundred		2.00

No..... Page.....

The State of Alabama,

.....COUNTY.

IN CIRCUIT COURT, IN EQUITY.

.....

.....

vs. Complainant,

.....

.....

Defendant.

Deposition Taken Before Register on Oral Examination.

Deposition of.....

for.....

Filed.....day of....., 19....

Published by order of the Court,.....

day of....., 19....

.....

Register.

MARSHALL & BRUCE CO., NASHVILLE

STATE OF ALABAMA,)
BALDWIN COUNTY.)

CIRCUIT COURT,
IN EQUITY.
NO.

TERM 19____

STATE BANK OF FOLEY,
a corporation,
COMPLAINANT,

-Vs-

G. L. BARNES &
GERTRUDE M. BARNES,
DEFENDANTS.

To W. S. ANDERSON, Esquire of Bay Minette, Alabama, Solicitor of Record:

You are hereby notified that, having been appointed Commissioner to take the deposition of HERBERT STARKEY, and VICTOR JURKIEWICZ, of Foley, Alabama, witnesses for the defendants in the above stated cause, I will commence to take said deposition at Foley, Alabama, at 10 O' clock A. M. on the 27th day of April, 1920.

Witness my hand, this the 21st day of April, 1920.

Irma Pope.
COMMISSIONER.

Copy of above notice given W. S. Anderson, Counsel for Complainant, April 21th, 1920.

Irma Pope.
COMMISSIONER.

8566 **Notice of Time and Place of Oral Examination.** FOR SALE BY GEO. D. BARNARD & CO., ST. LOUIS. S

THE STATE OF ALABAMA,
Baldwin County.

State Bank of Foley
Complainant

vs.

Gertrude M Barnes
et al
Defendant

No.

CIRCUIT COURT, IN EQUITY.

Term, 19

To Jno S Anderson, Esq Solicitor of record for complainant

~~Solicitors of Record.~~

Please take notice that in the above stated cause pending in the Circuit Court of Baldwin County, in Equity, we will proceed at 10 AM o'clock on the 27 day of April 1920, at the office of P. J Cooney, Foley Alabama

in ~~Alabama~~, before Irma Pope, Commissioner to take the oral examination of the witnesses Herbert Starkey and Victor Jurkiewicz

Witness, this the 21 day of April 1920

Reckarly Frazer & Beebe
Solicitors for Defendants

To Register of the Circuit Court, in Equity:

Please summon the witnesses named in the above notice to appear before

for an oral examination, in pursuance with the foregoing notice.

Solicitors for

No......

THE STATE OF ALABAMA,

.....*County.*

CIRCUIT COURT, IN EQUITY.

.....

.....

Complainant.....

vs.

.....

.....

Defendant.....

NOTICE OF TIME AND PLACE OF ORAL EXAMINATION.

Issued.....*19*.....

STATE BANK OF FOLEY,	)	
	)	CIRCUIT COURT OF BALDWIN COUNTY,
-Vs-	)	
	)	ALABAMA.
GERTRUDE M. BARNES, et al.	)	

To William S. Anderson, Esquire, Solicitor for State Bank of Foley:

Please take notice that this being the day set for taking testimony of Herbert Starkey and Victor Jurkiewiez, at Foley, Alabama, and it being impossible on this day to take the testimony at said place, that the taking of said testimony was continued to 10:30 O' clock, Wednesday, April 28th, 1920, and on said date at such time amd place I will take the evidence of said witnesses in the town of Foley, Alabama.

Irma Pope,

Commissioner.

~~Copy of notice~~

Copy of above notice of continuance handed to William S. Anderson, Esquire, this April 27th, 1920.

Irma Pope,

Commissioner.

The State Bank of Foley, a corporation created under the laws of the State of Alabama. Complainant	In Circuit Court, Baldwin County, Alabama.
vs.	In Equity.
G. L. Barnes and Gertrude M. Barnes, his wife, Defendants.	

To the Honorable A. E. Gamble, Judge of the Circuit Court of Baldwin County, Alabama:

The Bill of Complaint of the State Bank of Foley, a corporation created and existing under the laws of the State of Alabama, and doing business at Foley, Baldwin County, Alabama, against G. L. Barnes and Gertrude M. Barnes, his wife, who are non-residents of the State of Alabama and whose Post Office Address is Cornwall in the State of Missouri; Defendants are each over the age of twenty-one years.

1.

Orator shows unto your Honor that the said G. L. Barnes became indebted to Orator on or about the 13th.day of July 1911, which indebtedness was evidenced by two promissory notes made by the said G. L. Barnes, each dated, July 13th 1911 and each for the sum of Five Hundred Dollars and payable on or before twelve months after date at the State Bank of Foley, Alabama. Orator instituted a suit on said notes in the Circuit Court of Baldwin County, Alabama, on the 19th day of July 1913 against said G. L. Barnes, and on May 19, 1915 recovered a judgment in said Court against said G. L. Barnes for the sum of Thirteen Hundred and Seventy-six 66/100 Dollars besides the sum of One hundred and eighteen Dollars costs of Court.

A Certificate of said Judgment was filed and recorded in the office of the Probate Judge of Baldwin County, Alabama on Nov.10,1915.

And Orator shows unto your Honor that said judgment is still unpaid and the same is the property of your Orator.

2.

Orator further shows that at the time said G. L. Barnes became indebted to Orator as aforesaid and for some time prior thereto he was the owner and in possession of the following described lands in Baldwin County, Alabama, viz: the South West quarter of the SE$\frac{1}{4}$ (SW$\frac{1}{4}$ of SE$\frac{1}{4}$) of Section Seventeen (17) in Township Seven (7) South Range Four (4) East, with valuable improvements thereon.

Orator further shows unto your Honor that on May 19th 1915, the same day on which the judgment was rendered by the Circuit Court of Baldwin County, Alabama, against said G. L. Barnes and in favor of Orator for the sum of $1376.66 besides $118.00 costs of Court, there was filed for record in the office of the Probate Judge of Baldwin County, by said G. L. Barnes an instrument in writing purporting to be a conveyance by said G. L. Barnes to Gertrude M. Barnes (his wife) of said above described lands, to wit: the SW¼ of the SE¼ of Section Seventeen (17) in Township Seven (7) South, Range Four (4) East in Baldwin County, Alabama, for the recited consideration of $1700. Said Conveyance bears date, November 1st.1912, but the same was not filed for record by said G. L. Barnes until May 19,1915.

And Orator charges that said conveyance by said G. L. Barnes to his wife, the said Gertrude M. Barnes, was made with the intent to hinder, delay or defraud his creditors, and particularly to hinder, delay or defraud your Orator to whom he was indebted at the time of making such conveyance in the amount due on said two notes of five hundred dollars each, and nothing had or has ever been paid on said notes except the interest to July 13th 1912.

Prayer for Process.

The premises considered Orator prays that the said G. L. Barnes and Gertrude M. Barnes may be made parties defendant to this Bill of Complaint, that the States writ of subpoena be issued to each of said parties, or that they be served with notice of this Bill of Complaint in such manner as may be required by law, and that each of said defendants be required to plead, answer or demur to the same within the time and in the manner required by law and the rules of this Court.

Prayer for Relief.

Wherefore Orator prays that your Honor will take jurisdiction of this cause, and on the hearing of the same will order and decree that the conveyance by said G. L. Barnes to Gertrude M. Barnes of the SW¼ of the SE¼ of Section Seventeen (17) in Township Seven (7) South, Range Four (4) East in Baldwin County, Alabama, is null and void, and that your Honor will order and decree that the same is sub-

ject to the payment of the judgment recovered against said G. L. Barnes by Orator in the Circuit Court of Baldwin County, Alabama, on the 19th day of May 1915, and that your Honor will order that said land be sold under the direction of this Court and the proceeds applied to the satisfaction of said judgment, and for such other, further and different relief as to your Honor may seem meet and proper in the premises. And Orator will ever pray &c.

Wm S. Anderson

Solicitor for Complainant.

Foot note:

The defendants are each required to answer, but not under oath, the oath to such answers being hereby expressly waived, each paragraph of the Bill from Paragraph 1 to paragraph 3 both inclusive.

Wm S. Anderson

Solicitor for Complainant.

State of Alabama)
Baldwin County.) Before me T. W. Richerson, Clerk of the Circuit C

Court of Baldwin County, Alabama, personally appeared Wm. S. Anderson who is known to me, and who after being by me first duly sworn deposes and says, that he is the Solicitor for the Complainant in the foregoing Bill of Complaint, that the defendants are each over the age of twenty one years and are non-residents of the State of Alabama, that he has made investigation by correspondence and otherwise and to the best of his knowledge, information, the Post Office address of each of said defendants is, Cornwall, Missouri, and further that the facts set out in said Bill of Complaint are true to the best of his knowledge information and belief.

Subscribed and sworn to before me)
this 30th day of November 1918.)

T. W. Richerson

Clerk Circuit Court,
Baldwin County, Alabama.

Wm S. Anderson

State Bank of Foley, a corporation,	)	In Circuit of Baldwin County, Alabama.
	)	In Equity.
vs.	)	
	)	
G. L. Barnes and Gertrude M. Barnes	)	

In the above stated cause it is agreed by the Solicitors for the parties that said cause is down for a hearing on the Demurrers filed by the Complainant, to the Cross Bill of Defendant G. L. Barnes, before the Hon. A. E. Gamble, Circuit Judge, on Saturday, February 8th. 1919, at Greenville, Alabama.

Either party may file brief or attend in person as he or they may choose.

Witness our hands this Jany.31st 1919.

Wm. S. Anderson

Solicitor for Complainant.

Rickarby Pierce Beck

Solicitors for Defendants.

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State Bank of Foley

vs.

G. L. Barnes and
Gertrude M. Barnes.

Agreement for Submission of

cause on Demurrers.

Filed 2/1 ____ 1919.

D. T. Rieman

Register.

THE STATE BANK OF FOLEY, a corporation created under the laws of the State of Alabama. COMPLAINANT.	)	IN EQUITY.
VS	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.
G. L. BARNES and GERTRUDE M. BARNES, his wife, DEFENDANTS.	)	

TO THE HONORABLE ARTHUR E. GAMBLE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA; SITTING IN EQUITY:

Comes G. L. BARNES and GERTRUDE M. BARNES, the Respondents to the bill of complaint filed in the above entitled cause, and, for answer thereto, show unto your Honor as follows:

FIRST: Respondents admit that part of the first paragraph of the bill which alleges the execution by G. L. Barnes upon July 13th, 1911, of two promissory notes of $500.00 each, the institution of a suit on said notes in the Circuit Court of Baldwin County, and the recovery of judgment on May 19th, 1915, for $1376.61, and $118.00 Court costs, also the record of said judgment in the Probate Court of Baldwin County.

SECOND: Respondents admit that G. L. Barnes, at the time of the execution of said notes, was the owner and in possession of the Southwest Quarter of the Southeast Quarter of Section Seventeen, Township Seven South, Range Four East in Baldwin County, Alabama, and avers that same, with the improvements thereon, was occupied then by Respondents as a homestead and is still the homestead of Respondents.

THIRD: Respondents further admit that on May 19th, 1915, there was put on record in the Probate Court of Baldwin County a warranty deed by which the said G. L. Barnes conveyed the lands last above described, with the improvements thereon, to Gertrude M. Barnes, his wife, which said conveyance, however, was executed by Respondent, G. L/ Barnes, in good faith and for the actual cash consideration of Seventeen Hundred Dollars therein recited, on November 1st, 1912.

FOURTH: Respondents categorically deny that the

conveyance above described and here sought to be set aside was given with the intention to hinder , delay or defraud any creditor of the said G. L. Barnes, but, on the other hand, aver that the transaction in question was a bona fide sale made by both parties for the monetary consideration of $1700.00 which was the reasonable value of the premises, and which consideration was paid in cash by the said Gertrude M. Barnes out of her personal funds and was deposited in bank at the time of said trade by G. L. Barnes and subsequently expended by him in his own affairs, and that said transaction took place prior to the institution of any suit by Complainant.

FIFTH: Respondents further show that at the time the deed above described was made, the property conveyed was and had been since 1905 the home and homestead of the said G. L. Barnes and has since been the homestead of both Respondents; that same is less than 160 acres in area and $2000.00 in value and, with the exception of 40 acres of wild cut-over land, six miles distant and of little value, was the only real property owned by Respondents in Alabama, hence was exempt to them under the Homestead Exemption Laws of this State and any sale of said lands made by Respondents, or either of them, was not a fraud upon creditors but, aside from the question of good faith, was a transaction permitted and authorized by the laws of Alabama.

SIXTH: Respondents further aver that the judgment claimed by Complainant in its bill was based upon two notes of G. L. Barnes which Complainant claims to have discounted together with a number of notes of other parties for the Southern States Fire Insurance Company ; that the conditions under which said notes were secured from the said G. L. Barnes did not constitute an equitable liability on his part for the reason that said notes were obtained by misrepresentation and that the consideration for same had failed or was wanting and that for either or both of said reasons Respondent G. L. Barnes was not liable for the payment of same and that said Bank, at the time it acquired said notes, was aware of

the infirmaties of purchase and considerations
further aver that said Bank was not an innocent holder
value in that, even if unaware of the fraudulent manner in
which said notes were obtained, it had discounted same at a
rate of discount greater than that allowed by the laws of
this State. Wherefore, Respondents aver that even though a
judgment had been rendered on said notes in a court of law,
that said judgment under the conditions was inequitable and
unjust and on proper showing of the facts should be set aside.

Respondent, G. L. Barnes, prays that this answer may be taken as not only the joint answer of Respondents, but as his cross-bill; that due notice of same, as required by law, be given to Complainant and that, upon the hearing of this cause, Complainant's bill be dismissed, Respondents be permitted to go hence with their reasonable costs in this behalf expended, and that the judgment in the Circuit Court of Baldwin County, as described in the bill, be canceled and set aside; that a record of such cancelation be noted upon the record of said judgment in the Probate records of Baldwin County, and that Respondents have such other, further or different relief as to equity shall seem meet.

Pickarby, Austill & Beebe.

Solicitors for Respondent and
Cross-Complainant, G. L. Barnes.

State of Alabama,)
Baldwin County.)

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Seven-teen hundred Dollars to me in hand paid by Gertrude M. Barnes the receipt whereof is hereof is hereby acknowledged, I Gilbert L. Barnes, do grant, bargain, sell and convey unto the said Gertrude M. Barnes, my wife, the following described lands situated in Baldwin County, Alabama, to-wit:

The Southwest quarter of the Southeast quarter of Section Seventeen in Township Seven South of Range Four East, St. Stephens Meridian, containing Forty acres, more or less.

TO HAVE AND TO HOLD to the said Gertrude M. Barnes and her heirs and assigns forever.

And I do covenant with the said Gertrude M. Barnes that I am seized in fee of the above described premises; that I have the right to sell and convey the same; that the said premises are free from all incumbrances; and that I will and my heirs, executors and administrators shall forever WARRANT AND DEFEND the same to the said Gertrude M. Barnes and her heirs and assigns, against the lawful claims of all persons whomsoever.

WITNESS MY HAND AND SEAL This first day of November, 1912.

Gilbert L. Barnes (LS)

WITNESS:

State of Alabama,)
Baldwin County.)

I, Frank Fesler, a Notary Public in and for said State and County, hereby certify that Gilbert L. Barnes whose name is 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 said conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand this 2nd day of November, 1912.

Frank Fesler, Notary Public.
Com.Exp.Feby., 1916.

(Seal)
Filed for record May 19th, 1915.
Recorded May 21st, 1915.

J.H.H.Smith, Judge of Probate. (L)

State of Alabama,)
Baldwin County.)

I, James M. Voltz, Judge of the Probate Court of Baldwin County, Alabama, do hereby certify, that the above and foregoing is a true and correct copy of an instrument of writing, appearing of record in Deed Record No. 23 N.S., at pages 226 & 227, in the office of the Judge of the Probate Court for Baldwin County, Alabama.

In Witness Whereof I have hereunto set my hand and seal this 30th day of November, 1920.

James M. Voltz
Judge of the Probate Court of
Baldwin County, Ala.

PROBATE COURT ALABAMA BALDWIN COUNTY

It is agreed that

Baldwin County Bank

Bay Minette, Ala. 1/2 1912

To L. R. Barnes
Foley Ala

Your favor of 2 is received. We credit

		170	00

WE CHARGE BACK AND RETURN UNPAID

We Charge Back and Enter for Collection

All Items Credited Subject to Actual Final Payments.

W. D. STAPLETON, CASHIER.

STATE BANK OF FOLEY, a corporation, Complainant, -Vs- G. L. BARNES and G. M. BARNES, his wife, Respondents,	)))))))))	CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. IN EQUITY.

BRIEF FOR RESPONDENTS.

On July 13th, 1911, Respondent, G. L. BARNES, made a note to Complainant, on which note judgment was rendered May 19th, 1915. Respondent owned the lands described in the Complaint, having purchased in 1905, November 1st, 1912, he conveyed the lands to his wife for an actual consideration of $1700.00, which was paid by draft, money having been deposited to credit of G. L. BARNES in Baldwin County Bank. The deed was not recorded until May 19th, 1915, the day the judgment was rendered. Continuously from 1905 to 1917 the lands were the homestead of Respondents and at no time were worth as much as $2000.00./ G.L.Barnes owned no other lands So that on the day the deed was executed and on the day the judgment was rendered and the deed was recorded and for two years thereafter the lands were the homestead and were less in area and value than the homestead exemption. These facts are not controverted, (see the depositions of Respondent and of witnesses, Victor Jurkiewiez and Herbert Starkey, see also deed and deposit slip.)

The bill is brought to set aside this conveyance from G. L. BARNES to his wife, GERTRUDE M. BARNES, as fraudulent and to subject it to the judgment of Complainant.

Under the evidence, (correctly set out above, we believe) Respondents submit that the deed is valid; that G. L. BARNES had a right to convey said lands to his wife and that the deed passed to her the legal title, freed from the judgment, irrespective of whether the deed was made before or after the rendition,(though the uncontroverted testimony is to the effect that it was made before the judgment).

See 172 Alabama 89(55S0503) wherein the count says:

So it seems that the effect of the constitutional and statutory provisions above referred to (see 4160, 1901 Constitution Section 205) was, ex-proprio vigore,to exempt the homestead (if such there was as a distinct entity) from levy and sale under judicial process, and to place it as much beyond the influence of an execution as if it were the property of a stranger. ---------- The exemptioner in such case could sell the land or property so held, and invest a good title in the purchaser, to the same extent and with the same limitations on his power of disposition, as would be the case if his debt was not in execution, or was not reduced to judgment. It has been repeatedly held by this court that in such case he could sell the entire property for a valuable consideration, and that there would be no fraud, actual or constructive, in the transaction.

Respectfully submitted,

Rickarby & Buche
Solicitors for Respondents

Copy furnished W. S. Alexander, Esq. Solicitor for complainant this 7 Nov 29, 1930.

8572 CERTIFICATE OF REGISTER AS TO NOTICE BY REGISTERED MAIL. FOR SALE BY GEO. D. BARNARD & CO., ST. LOUIS. S

Southern States Land and Timber Co.
vs.
Gilbert L. Barner & Gertrude M. Barner

CIRCUIT COURT OF Baldwin COUNTY, IN EQUITY.

I, T. M. Richerson Register of said Court. do hereby certify that I did, on the 2nd day of Dec 1918, send to Gertrude M. Barner, Defendant whose address was Cornwall Ala.,

by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," a copy of the Bill of Complaint filed in this cause; that I demanded a return receipt addressed to the Register of this Court; and that such receipt was duly received and filed by me in this cause, on the 10th day of Dec 1918

Witness my hand, this 10 day of Dec 1918

T. M. Richerson
Register.

Acts 1915, Page 604.

STATE BANK OF FOIEY, a corporation, Complainant	)	CIRCUIT COURT BALDWIN COUNTY,
VS	)	ALABAMA . IN EQUITY.
G.L.BARNES AND GERTRUDE M. BARNES, Respondents	)	

This cause coming on to be heard is submitted upon the pleadings and proof as noted, and the same being considered, the Court is of the opinion that the Complainant is not entitled to the relief prayed for in its bill of complaint;

IT IS THEREFORE ordered, adjudged and decreed by the Court that Complainant's bill of complaint be and it is hereby dismissed.

It is further ordered that Complainant pay the costs in this proceedings, for which let execution issue, except the costs of the deposition of witnesses G.L.Barnes and Gertrude M.Barnes, which is taxed against Respondents, for which let execution issue.

Done this the 31st day of December, 1920.

John D. Leigh
Judge.

8572 CERTIFICATE OF REGISTER AS TO NOTICE BY REGISTERED MAIL. FOR SALE BY GEO. D. BARNARD & CO., ST. LOUIS. S

State Bank of Foley
a Corporation
vs.
Gilbert L Barnes and
Gertrude Barnes.

CIRCUIT COURT OF
Baldwin COUNTY,
IN EQUITY.

I, T W Reinmann Register of said Court. do hereby certify that I did, on the 2nd day of Dec 1918, send to G L Barnes ~~& Gertrude Barnes~~ Defendant whose address was Cornwall Mo. by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," a copy of the Bill of Complaint filed in this cause; that I demanded a return receipt addressed to the Register of this Court; and that such receipt was duly received and filed by me in this cause, on the 10th day of Dec 1918

Witness my hand, this 10 day of Dec 1918

T W Reinmann
Register.

Acts 1915, Page 604.