

Mrs. Maggie Roberts, Complainant,
vs.
No. 326 In Mobile Circuit Court, In Equity
Buchmann Abstract & Investment Co., Defendant.

To the Honorable

John D. Leigh, Judge;

Complainant having filed in this cause on this day, January 9th, 1920, her proposed note of evidence and also certain other papers and documents, contrary to the time limit fixed by the agreement dated November 13th, 1919, upon which the cause was submitted — and defendant having previously objected to certain of them, and the others not then objected to having been mere recopies of papers previously put on file in the cause by complainant, and being already thereon on file, — Defendant now again objects to each paper filed herein by complainant on this day and moves the Court to strike from the files each of said papers so filed by complainant on this Ninth day of January, 1920 +

Defendant moves the Court to disregard and not consider any paper or document filed this 9th day of January 1920, by complainant. This filing is in violation of the parties' agreement under which the cause was submitted +

And Defendant, by reference, now again makes the same objections ^{and motions to exclude} as previously filed by defendant +
W. R. Cobbs, S. C. Jenkins, Solicitors at Law.

Maggie Riberts,

No. 326. VS.

Buchmann Abstract & Investment
Co.

This cause coming on to be heard, is submitted ~~for decision on the pleadings~~
~~and on the~~ on defendant's motion to suppress deposition of witness,
~~as noted by the Register.~~ Maggie Riberts.

In Term time June 16th., 1919.

No. 326.....

Maggie Roberts,

VS.

Buchmann Abstract & Invest-
ment Co.

Order of Submission

..... January Term, 1919.....

June 16, 1919.

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CIRCUIT COURT
OF MOBILE COUNTY
(EQUITY)

No. _____

vs.

192

Received from JAMES A. CRANE, Register, the above file of papers.

Attorney.

Per _____

Attorneys desiring to borrow files will please fill out the above blank. Ask for this receipt on returning files, and oblige,
JAMES A. CRANE, Register.

No. 326

Maggie Roberts
—

Bu Euman
Altra et Altra
Co.

This case
transferred
to B. Baldwin
Co.

Maggie Roberts,)
Complainant)
vs)
Buchman Abstract &)
Investment Company .)

No 251

In the Circuit Court of Baldwin County
In Equity.

Comes now the respondent and cross-complainant and moves to exclude the papers endorsed on the back "certified copy of Complaint in suit - against Cooper & Bondsmen" and No (17(326) purporting to be a certified copy of a judgment rendered in the Circuit Court of Baldwin County vs Henry H Cooper and the United States Fidelity and Guaranty Company upon the following grounds 1st said complaint and judgment thereon show on its face to have been for moneys that H. H. Cooper as collector of Baldwin County collected from October 1st, 1907 to April 25th, 1908 and which he failed to pay over to the treasurer of Baldwin County. And because they nowhere refer to any taxes said Cooper collected from tax payers for the year 1906 for Baldwin County, which said tax year ended on Sept 30th, 1907 prior to the times alleged in said complaint for which he was due taxes 3rd. Because the taxes involved in the case at issue were delinquent on January 1st, 1907 and were sold for such delinquency on July 6th, 1907 prior to any time or times mentioned in said judgment obtained or complaints made against the administration of the tax office by the said H. H. Cooper 4th because they are illegal, irrelevant and immaterial.

5th Because by notice of the filing of the papers was not given to Respondent and his Complainant

Jesse F. Hogan

J. C. Jenkins

Solicitors for respondent & Cross-complainant

MAGGIE ROBERTS,
Complainant.
vs

BUCKMAN ABSTRACT & INVESTMENT CO.

IN THE CIRCUIT COURT OF
MOBILE COUNTY.

IN EQUITY.

Depositions of P. J. Cooney, Reuben McCurdy and G. W. Humphries witnesses for complainant in above entitled cause.

The said witnesses having been by me first duly sworn, upon examination by Elliot G. Rickarby Esq., of counsel for complainant and S. C. Jenkins Esq., Solicitor for respondent, testified as follows:

Direct examination of Reuben McCurdy.

I know the $W\frac{1}{2}$ of $NE\frac{1}{4}$ and the $E\frac{1}{2}$ of $NW\frac{1}{4}$ of Section 21 Tp. 6 S of Range 4 E. I know the General location of the lines of this land as I live in the adjoining Section, where I have lived for more than 40 years. This was homesteaded by a Mr. Brewton who sold to a Mr. James who died on the place about 15 years ago, and his daughter Mrs. Maggie Roberts has owned the place ever since. Mrs. Roberts does not live here, but Mr. P. J. Cooney her agent has been in charge of the place and in possession for her for the last 12 or 15 years. I have never seen or heard of any one except Mr. Cooney as Mrs. Roberts agent making any claim to the property or asserting any possession. Five or six years ago some one strung a wire on some sapplings for 2 or 3 hundred feet but this soon fell down; I do not know who put it there. The old house on the place has fallen to pieces and has not been habitable for 10 or 15 years. I know to my certain knowledge that no one has been in possession of the place since Mrs. James death about 11 years ago, except her daughter Mrs. Roberts her agent.

Cross examination of Reuben McCurdy.

When I stated that Mr. Cooney had been in possession as

agent that he had not lived on the place. Mr. Cooney does not live upon the land but lives at Foley. I have never seen Mr. Cooney out on the land. I have seen him around Summerdale. I do not know when this bill was filed and I do not know that when it was filed Maggie Roberts was or was not in possession of this land. I know the land and when I went out there I did not see any body in possession or any sign of any one being in possession. I know Mr. James and I know he is dead but how long he has been dead I do not know and I do not know he was dead at the time this bill was filed. Mary James is dead. So far as I know Maggie Roberts is still alive. It has been only a few days since I went across this land. Mr. Rogers has a farm adjoining this land since the last July storm he has lived at Summerdale at Mr. Fosters place.

Re-direct of Reuben McCurdy.

I have been over this land since the death of Mr. and Mrs. James on an avergae of once a month. I cannot well go out to hunt cattle without going across it. Both Mr. and Mrs. James died on this place but I cannot remember the year they died; it was a good many ago. Since then no one has lived on the place but Mr. Cooney is generally known through out the neighborhood as the agent of the owner of the property.

Re-cross examination of Reuben McCurdy.

I know Mr. Rogers; he lives next door, but I have never heard of him being agent for resposnednt.

Reuben McCurdy

Sworn and subscribed to before me this 22 day of
July, 1917,

Aug. D. Moore
Commissioner.

Direct examination of P. J. Cooney.

I have known the West half of the Northeast quarter and the East half of the Northwest quarter of Section 21 in Township 6 South of Range Four East, for the last 12 or 15 years and I know generally the lines of this tract. When I first knew it was owned by one Simon Brewton who homesteaded it; he sold it to Thomas S. James who lived upon it with his wife. James died about 1903 and his wife died a short time afterwards. James willed his property to his wife for her life and after her death to her daughter, Maggie Roberts who now lives in Chicago. She left this country two or three years after her mothers death and put me in Charge of the property. I have assessed the property and paid taxes upon it a number of years since she went away. I have gone over the land on an average of twice a year since Mrs. Roberts left and have never seen any one in possession of it or heard of any one claiming it until shortly before this suit was filed, when I heard that the respondent claimed to have a tax title. Prior to that time I heard that they had bought it in at a tax sale so I looked the matter up, found that the taxes had been paid for the year they claimed it was sold; sent to Mrs. Roberts for the receipt for that year and wrote respondent about this, not being able to get any satisfaction out of them this suit was brought. After Mrs. James died the house was allowed to run down and become uninhabitable; the 1906 storm also injured it very much. I know to my certain knowledge that no one has lived upon the place or been in possession of it, other than myself as agent, except Mrs. Roberts for a year or two after her mothers death, and even she did not live upon it. It is all wild land, except a small clearing around the house which has now grown up in sapplings. This tax receipt marked exhibit "A" and being for the taxes for 1906 is the one Mrs. Roberts sent me, and is ~~the~~ for the taxes for the year which the property was sold and bought by respondent.

Cross examination of P. J. Cooney.

This tax receipt was for the year 1906. I could not say whether or not the will of Thomas S. James to Mary James was probated before or after her death. I do not know whether or not Mary James was living in 1906 or not, I don't think she was. According to the records Buckman Abstract & Investment Co. these particular lands at tax sale July 8th, 1907 for taxes for the year 1906, these lands being assessed to Mary James. I never heard Mr. Rogers name mentioned as ~~xxx~~ agent of the Buckman Abstract Co. until this morning. I know Mr. Rogers, his name is W. F. Rogers, he did live near this piece of land. I did notice a wire tacked upon some sapplings on this land covering about one acre of ground. This title came to Mary James by Will from her husband Thos, S. James. Thos. S. James got title from Ray Brewton and Ray Brewton got title from Simon Brewton who at that time lived in the State of Miss.

Re-direct exam. of P. J. Cooney.

The wire I spoke about was one strand of very small smooth wire and on my next visit three months after it was down and had been down ever since.

J. Cooney

Sworn and Subscribed to before me this 23 day of July,
1917.

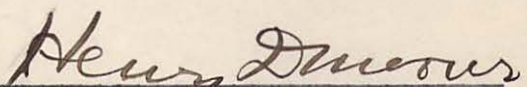
Henry Brown
Commissioner.

C E R T I F I C A T E .

I, Henry D. Moorer, Commissioner named in the foregoing commission which issued out of the Circuit Court of Mobile County, Alabama in that certain cause wherein Maggie Roberts is Complainant and The Buckman Abstract & Investment Co. is defendant, do hereby certify that under and by virtue of the power conferred upon me by said commission, I caused the said Reuben McCurdy and P. J. Cooney, who is known or made known to me at Bay Minette, Alabama, that they were duly sworn and testified as is set down in said depositions; that the testimony was by me reduced to writing, and that it was subscribed to by the witnesses in my presence after first having the testimony read over to them; said witnesses testified on the 23rd day of July, 1917.

I further certify that I am not of kin nor of counsel to either party to the suit and that I am not in any way interested in the result of said suit.

Dated this 23rd day of July, 1917.


Commissioner.

The State of Alabama, Mobile County

Circuit Court
IN EQUITY
AT MOBILE, ALA.

Maggie Roberts, -----

vs.

Buchmann Abstract & Investment Co.-----

To Henry D. Moorer, Esq.,-----

Bay Minette, Ala.-----

Esq., Greeting:

KNOW YE, That we in confidence of your prudence and fidelity, have appointed you, and by these presents do give you ~~or either of you~~, full power and authority to take, upon oral examination, the deposition of P. J. Cooney, Reuben McGurdy, Abraham McGurdy and G. W. Humphries-----

as witness ~~es~~ on part of complainant

in the above entitled cause, and therefore we command you ~~or either of you~~, that at such time and place, or times and places, as you may appoint, of which you will give----- days' notice to all the parties, or their solicitors of record in said cause, viz: to-----

Rickarby, Austill & Beebe, solicitors for complainant;

D. C. Cobbs, S. C. Jenkins, A. A. Griffith, solicitors for defendant;

you do cause the said witness ~~es~~ to come before you, ~~or either of you~~, and then and there examine ~~them~~ on oath, on the interrogatories and cross-interrogatories, which may be then and there propounded to them by the said party. And that you ~~or either of you~~, do take such examination, and reduce the same into writing and and return the same annexed to this Writ, closed up under your seal, ~~or the seal of either of you~~, into our said Circuit Court, with all convenient speed, that the same may be read in evidence on the trial of the cause aforesaid.

WITNESS: JAMES A. CRANE, Register of our said Court, at office
this 13th day of June 1917.

ATTEST:

James A. Crane
Register

TO THE COMMISSIONER :

In executing the within commission, you will please be particular in observing the following rules: Your certificate must show that you caused the witnesses to come before you at some specified time and place, or times and places; that said witnesses are known or have been made known to you, and that they were duly sworn by you; that they testified as it is set down; that the testimony was by you reduced to writing, and that it was subscribed by the witnesses in your presence after having been first read over to them. And further, that you are not of kin nor of council to either party to the suit and that you are not in any manner interested in the result thereof. All the papers returned by you should be attached together, all enclosed in an envelope; this envelope should be sealed up by you, and across the seals of the same you should write your name or names. The title of the case must be endorsed on the outside of the envelope; also the names of the witnesses examined, and whether for the complainant or defendant. On the commission itself must be marked the amount of your fees, and if paid, by whom. The package should then be directed to the Register, Circuit Court Mobile County, Mobile, Ala.

*Booney and
McGandy -*

No. 326.

**Circuit Court Mobile County
IN EQUITY
AT MOBILE, ALA.**

Maggie Roberts.

VS. } Commission to take Testimony
on Oral Examination

Buchmann Abstract & Investment

C.O.

Witness for complainant.

*Filed July 25 1917
J. A. [unclear] [unclear]
Register
Publishing [unclear]
by [unclear] by order
of Court, Oct 4 1917
J. A. [unclear]
Register*

Commissioner's Fees

Paid by

MAGGIE ROBERTS,
Complainant.

NO.

VS.

IN EQUITY

BUCHMANN ABSTRACT &
INVESTMENT COMPANY,
Respondent.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

The Complainant presents the following Note of Evidence
in the above entitled cause:

- ✓ 1. Bill of Complaint as amended.
- ✓ 2. Answer to Cross-bill.
- ✓ 3. Deposition of Maggie Roberts, Complainant.
- ✓ 4. Exhibit A to said deposition, 1906 Tax receipt,
- ✓ 5. Exhibit B to said deposition, letter from H. H. Cooper,
Tax Collector.
- ✓ 6. Deposition of P. J. Cooney.
- ✓ 7. Deposition of I. Wolf.
- ✓ 8. Deposition of J. R. Crosby.
- ✓ 9. Deposition of Joseph D. Beroujon.
- ✓ 10. Deposition of George T. Rosson.
- ✓ 11. Deposition of J. M. Voltz.
- ✓ 12. Certified copy of the will of Thomas ^J James.
- ✓ 13. ~~Certified copy~~ ^{Original} of patent to Simon Brewton to lands
involved in this cause.
- ✓ 14. ~~Certified copy~~ ^{Original} of deed of Simon Brewton and wife to
Ray Brewton.
- ✓ 15. ~~Certified copy~~ ^{Original} of deed of Ray Brewton and wife to
Thomas S. James.
- ✓ 16. Deed of Ellen Morris to Maggie Roberts.
- ✓ 17. Deed of Mary Duell and John P. Duell to Maggie Roberts.
- ✓ 18. Certified copy of Tract Book Entry, United States to
Simon Brewton.
- ✓ 19. Official receipt for taxes for year 1904.
- ✓ 20. Official receipt for taxes for year 1908.
- ✓ 21. Certified copy of assessment of Mary James for years
1905 and 1906.
- ✓ 22. Official Tax Receipt Book for 1907 for Baldwin County.
- ✓ 23. Certified copy of Tax Collector's report to the Probate

✓ Court made May, 1907, as to taxes for tax year of 1906, and decree of Probate Court on said report.

✓ 24. Original Delinquent Decree Docket No. 5 pertaining to report of Tax Collector and decree of Court for 1906 taxes.

✓ 25. Objections to admission of tax deed.

✓ 26. Objections to testimony of Respondent's witness, Buchmann,

✓ 27. Certified copy of complaint in suit of Baldwin County vs H. H. Cooper, as principal, and United States Fidelity & Guaranty Company, as surety, in Baldwin Circuit Court.

✓ 28. Certified copy of complaint in suit of State of Alabama vs H. H. Cooper, as principal, and United States Fidelity & Guaranty Company, as surety, in Circuit Court, Baldwin County.

✓ 29. Certified copy of judgment rendered in Circuit Court of Baldwin County in favor of the State of Alabama and against H. H. Cooper and United States Fidelity & Guaranty Company, as surety, upon his official bond as Tax Collector.

✓ 30. Certified copy of judgment rendered in Circuit Court of Baldwin County against H. H. Cooper and United States Fidelity & Guaranty Company, as surety, upon his official bond as Tax Collector.

✓ 31. Certified copy of indictment found in Circuit Court of Baldwin County against H. H. Cooper.

✓ 32. Affidavit of H. D. Moorer.

33. Affidavit of E. G. Rickarby.

✓ 34. *agreement of counsel*

J. W. Ricker
Register Circuit Court.

Mrs. Maggie Roberts,

No. 326. VS.

Buchmann Abstract & Investment
Company.

This cause coming on to be heard, is submitted for decree on the pleadings and on the proof as per the following agreement.

MRS. MAGGIE ROBERTS,
Complainant,

VS.

BUCHMANN ABSTRACT &
INVESTMENT COMPANY,
Defendant.

It is agreed that this cause be now submitted to Judge John D. Leigh, now presiding, for final decree to be rendered by him under the following stipulations:

- FIRST: Complainant, after reasonable notice of time and place of taking depositions, to have all her evidence on file within thirty days from the date hereof; and defendant, after like notice to opposing counsel, to have all its evidence on file within fifteen days after complainant's is in.
- SECOND: All unpublished depositions to be published by the Register, and within five days after all evidence of both sides is on file, the parties shall file all exceptions and motions as to evidence.
- THIRD: Notes of testimony are to be exchanged by the parties in time to comply with above making of objections and noting them, and all notes of evidence to be on file within seven days after final publishing of depositions and filing of all evidence to be offered.
- FOURTH: When the papers are ready, and within five days after the notes of evidence are completed, the Register to turn over all papers in the case to Judge Leigh for consideration and decree;— arguments to be made by briefs duly exchanged.

D. B. Cobbs

Solicitor for Defendant.

Rickarby & Beebe

Solicitors for Complainant.

November 13, 1919.

In Term Time, November 15th., 1919.

November 15, 1919.

November 15, 1919.

COMBINATION FOR DEFENSE.

COMBINATION FOR DEFENSE.

COMBINATION FOR DEFENSE.

D. W. COPPE

... to be made by ... exchange ...
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... the following ...

July Term, 1919.
Nov. 15, 1919.

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No. 326.

Maggie Roberts,
vs.
Buchmann Abstract &
Investment Company.

Order of submission.

COMBINATION FOR DEFENSE.

... to be ...

COMBINATION FOR DEFENSE.

No. 326.

Maggie Roberts.

CIRCUIT COURT OF THE DISTRICT OF COLUMBIA
MORRIS V. V. &
MOBILE COUNTY

Maggie Roberts,

No. 326.

VS.

Buchman Abstract & Investment
Company.

This cause coming on further to be heard upon defendant's motion to regulate manner of taking evidence at hearing of motion to set aside submission and modify decree and being submitted on this motion and considered by the Court it is ordered, adjudged and decreed that said motion be and hereby is refused. Of which ruling of the Court the defendant excepts.

In term time, May 9, 1918.

CIRCUIT COURT OF MOBILE COUNTY
MOBILE, ALA.
IN EQUITY

No. 326.

Maggie Roberts,

VS.

Buchman Abstract &
Investment Co.

ORDER refusing

motion to regulate taking of ~~exhibits~~
evidence.

January

Term, 191 8

May 9th.,

191 8

Ent. Min. 2

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