

FILED

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT IAW

OCT 25 1972

CASE NO. 39159 - HOGAN

WILLIAM E. BLACKMON CIRCUIT CLERK

RUDOLPH C. ROLISON

JURY

VS. Suit for \$25,000.00 damages for breach of agreement

BAILEY & TAYLOR  
By: Lloyd E. Taylor  
P.O. Box 361  
Fairhope, Ala. 36532

HENRY H. SULLY, JR., and JACK E. POPE, separately  
and severally

N.J.

| PLEADINGS, PROCESS, ETC, | FILING DATE |   |
|--------------------------|-------------|---|
| 1. Complaint & Summons   | 6-14-72     | C & S served on Henry H. Sully, Jr. on June 19, 1972.<br>C & S served on Jack E. Pope on June 20, 1972.   |
| 2. Plea in Abatement     | 7-17-72     |   |
| 3. Demurrer              | 7-21-72     | Plaintiff's demurrer filed July 21, 1972 to the Defendants' Plea in Abatement.<br>August 4, 1972 - Demurrer Overruled. /s/ Elwood L. Hogan 46-31    |
|                          |             | October 20, 1972 - Plea in Abatement sustained, and case transferred to Baldwin County, Alabama for further proceedings. /s/ Elwood L. Hogan 46-356 |

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.

In Witness whereof I have hereunto set my hand and attached my Official Seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on this the 24th day of October 1972.

*John E. Mandeville* Clerk

FILED  
OCT 25 1972  
EUNICE B. BLACKMON CIRCUIT CLERK

RUDOLPH C. ROLISON, ) IN THE CIRCUIT COURT OF  
Plaintiff, ) MOBILE COUNTY,  
VS. ) ALABAMA

HENRY H. SULLY, JR., and )  
JACK E. POPE, separately )  
and severally, )

Defendants. ) CASE NO. 39159

COMPLAINT

COUNT ONE

The Plaintiff claims of the Defendants the sum of TWENTY FIVE THOUSAND AND NO/100 (\$25,000.00) DOLLARS, for the breach of an agreement entered into by them on, to-wit, the 1st day of June, 1971, in substance as follows: Rudolph C. Rolison agreed to manage and operate a business, called Panel Mart, engaged primarily in its initial stage in the selling of panelling at a site to be selected and agreed upon by all of the parties. Henry H. Sully, Jr. agreed to put up the sum of \$10,000.00 for initial capital investment. Jack E. Pope agreed to put up the sum of \$10,000.00 for initial capital investment. The business was to be operated as a partnership initially with Plaintiff and Defendants being equal partners. It was further agreed that all profits would be divided as follows:

(1) Rudolph C. Rolison to get the 1st \$700.00 per month out of net profits with this money to be treated as a salary.

(2) Net profits over \$700.00 and up to \$2,100.00 to be divided equally between Henry H. Sully, Jr. and Jack E. Pope.

(3) All net profits over \$2,100.00 to be divided equally between the Plaintiff and each of the Defendants.

It was further agreed that if the business were sold Henry H. Sully, Jr. and Jack E. Pope would each get back

their \$10,000.00 investment and any amounts in excess of \$20,000.00 would be divided equally between the partners.

It was further agreed that the business would be incorporated with Rudolph C. Rolison as its Vice President and owning shares of stock representing his interests in said business.

It was further agreed that a petty cash fund of between \$500.00 and \$2,000.00 was to be maintained with Rudolph C. Rolison having the power to write checks on this account.

It was further agreed that if one of the parties wanted to sell the others would have the option of purchasing his interest in said business and that as long as a party remained a partner he would not deal in anything that would conflict with the said company's operation.

It was further agreed that all promotionals and new stores would be handled through the Mobile office of Panel Mart.

And the Plaintiff says that, although he has complied with all its provisions on his part, the Defendants have failed to comply with the following provisions thereof, viz:

The Defendants incorporated a business using the name Panel Mart in which Plaintiff was not given any stock to reflect his interest in said business; funds generated by Plaintiff were used to pay expenses of the Defendants' corporation; the Defendants have refused to account to Plaintiff for the profits of the business, and have failed to set up a petty cash fund for said business.

Plaintiff further avers that as a direct and proximate result of the conduct of the Defendants he has been prevented from enjoying the fruits of his labors, and been deprived of his equity in said business, all to his great damages in the sum aforesaid, and Plaintiff claims special and general damages, hence this suit.

COUNT TWO

The Plaintiff claims of the Defendants TWENTY FIVE THOUSAND AND NO/100 (\$25,000.00) DOLLARS, as damages for the conversion by them on, to-wit, the 28 day of April, 1972, of the following chattels:

666 Shares of stock in Panel Mart, Inc.  
the property of the Plaintiff.

COUNT THREE

The Plaintiff claims of the Defendant the following personal property, viz:

666 Shares of stock of Panel Mart, Inc.  
with the value of the hire or use thereof during the detention,  
viz: from, to-wit, the 28th day of April, 1972.

Attorney for Plaintiff

William H. Saliba  
William H. Saliba  
850 Downtowner Boulevard  
Mobile, Alabama 36609

Plaintiff demands trial by jury.

William H. Saliba  
William H. Saliba

Serve Defendants:

Jack E. Pope  
c/o Major Homes  
801 Section Street  
Fairhope, Alabama

Henry H. Sully, Jr.  
300 Bay View Avenue  
Fairhope, Alabama

STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON  
JUN 14 8 42 AM '72  
Paul M. [Signature]  
CLERK

**THE STATE OF ALABAMA**  
MOBILE COUNTY

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

HENRY H. SULLY, JR., and JACK E. POPE, separately and severally

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

RUDOLPH C. ROLISON

WITNESS: John E. Mandeville, Clerk of said Court, this 14th day of JUNE, 1972

Attest:

*John E. Mandeville*

Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_

by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

No. 39159 ELH

JUDGE (L) DOCKET

CIVIL DIVISION

**CIRCUIT COURT**  
MOBILE COUNTY

Rudolph C. Rollison

VS. Complaint and Summons

JUN 16 1972

Henry H. Sully, Jr., and Jack E. Pope, etc.

Issued 14th day of June, 1972

**Defendant's Address**  
Jack E. Pope, c/o Major Homes,  
801 Section Street, Fairhope, Alabama

Henry H. Sully, Jr., 300 Bay View  
Avenue, Fairhope, Alabama

WILLIAM H. SALIBA

Plaintiff's Attorney

Sheriff Claims  
Ten Cents per mile Total \$14.80  
TAYLOR WILKINS Sheriff  
BY (Signature) SHERIFF

1-0700-4  
1-0700-5

Received 16 day of June 1972  
and on 19th day of June 1972  
I served a copy of the within of x 0  
on Henry H. Sully, Jr. & Jack E. Pope  
By service on Jack E. Pope 6-20-72  
TAYLOR WILKINS Sheriff  
BY (Signature) D.S.

**THE STATE OF ALABAMA**  
MOBILE COUNTY

}

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:  
You are hereby commanded to summon

HENRY H. SULLY, JR., and JACK E. POPE, separately and severally

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

RUDOLPH C. ROLISON

WITNESS: John E. Mandeville, Clerk of said Court, this 14th day of JUNE, 1972

Attest: John E. Mandeville  
Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_  
by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

BAILEY & TAYLOR  
ATTORNEYS AT LAW  
61 NORTH SECTION STREET  
P. O. BOX 361  
FAIRHOPE, ALABAMA 36532

JULY 14TH, 1972

CLERK, CIRCUIT COURT  
MOBILE COUNTY,  
MOBILE, ALABAMA, 36601

RE: RUDOLPH C. ROLISON, vs. HENRY  
H. SULLY, JR., ET AL  
CASE No. 39159


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PLEASE FILE THE ATTACHED PLEA IN ABATE-  
MENT IN THE ABOVE CAUSE.

I HAVE, THIS DATE, FORWARDED A COPY OF  
THE SAME TO WILLIAM SALIBA, ATTORNEY FOR  
THE PLAINTIFF.

THANKING YOU FOR YOUR ASSISTANCE IN THIS  
MATTER, I AM

VERY TRULY YOURS,

*Lloyd S. Taylor*  
LLOYDE. TAYLOR 

LET/W

INCL: AS NOTED

RUDOLPH C. ROLISON,

PLAINTIFF,

VS.

HENRY H. SULLY, JR., AND  
JACK E. POPE, SEPARATELY  
AND SEVERALLY,

DEFENDANTS

IN THE CIRCUIT COURT OF  
MOBILE COUNTY, ALABAMA

CASE NO: 39159-EH

COMES NOW THE DEFENDANTS HENRY H. SULLY, JR., AND JACK E. POPE, SEPARATELY AND SEVERALLY, IN THE ABOVE STYLED CAUSE AND APPEAR SPECIFICALLY FOR FILING THIS PLEA IN ABATEMENT AND FOR REASON THEREFOR SAY: THAT THE DEFENDANTS ARE RESIDENTS OF FAIRHOPE, BALDWIN COUNTY, ALABAMA AND WERE SUCH AT THE TIME THE ALLEGED CAUSE OF ACTION OCCURRED, AND AT THE TIME OF FILING THE SUIT IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA.

FOR REASONS HEREIN, SAID SUIT SHOULD BE ABATED IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA.

Henry H Sully Jr  
HENRY H. SULLY, JR.

Jack E Pope  
JACK E. POPE

STATE OF ALABAMA

COUNTY OF BALDWIN

BEFORE ME, PERSONALLY APPEARED HENRY H. SULLY, JR. AND JACK E. POPE, WHO HAVING FIRST BEEN DULY SWORN, DEPOSE AND SAY THAT THE  
~~FACTS~~ **CERTIFICATE OF SERVICE** ARE TRUE.

I do hereby certify that I have on this July 14 1972  
served a copy of the foregoing on WILLIAM SALIBA  
By mailing the same by United States Mail, Properly addressed, and First  
Class Postage Prepaid.

BAILEY & TAYLOR

By: Henry H Sully Jr  
Jack E Pope

SWORN AND SUBSCRIBED TO BEFORE ME

THIS THE 13<sup>TH</sup> DAY OF JULY, 1972.

Henry H Sully Jr  
NOTARY PUBLIC

STATE OF ALA MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON  
JUL 17 8 13 AM '72  
CLERK

This Instrument Prepared  
By Bailey & Taylor  
Attorneys At Law  
Fairhope, Alabama

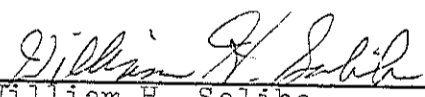
RUDOLPH C. ROLLISON, ) IN THE CIRCUIT COURT OF  
Plaintiff, ) MOBILE COUNTY, ALABAMA  
VS. )  
HENRY H. SULLY JR., and )  
JACK E. POPE, Separately )  
and Severally, )  
Defendants. ) CASE NO. 39159 - EH

DEMURRER TO PLEA IN ABATEMENT

Comes now the Plaintiff and demurs to the plea in abatement on the following separate and several grounds, viz:

1. The action of conversion set out in Count Two is an action in trespass on the case and a tort action as opposed to a contract action.
2. The action of detinue set out in Count Three is an ex delictu action.
3. Title 7 § 54 establishes venue of all personal actions other than those founded in contract in the county in which the wrong was done.
4. A plea in abatement addressed to a multicount complaint which said complaint has ex contractu and ex delicto counts is bad unless it addressed itself solely to the contract actions.

Attorney for Plaintiff

  
William H. Saliba  
850 Downtowner Boulevard  
Mobile, Alabama


CERTIFICATE OF SERVICE

I do hereby certify that I have on the 20 day of July, 1972, served a copy of the foregoing pleading on Counsel for all parties to this proceeding by mailing the same by United States Mail, properly addressed and first class postage prepaid.



STATE OF ALA. MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

JUL 21 10 37 AM '72

  
CLERK

FRIDAY, OCTOBER 20, 1972

|                                  |   |                                 |
|----------------------------------|---|---------------------------------|
| RUDOLPH C. ROLISON               | ) |                                 |
| HOGAN        -vs-        39159   | ) | PLEA IN ABATEMENT SUSTAINED,    |
| HENRY H. SULLY, JR., and JACK E. | ) | AND CASE TRANSFERRED TO BALDWIN |
| POPE, Separately and severally   | ) | COUNTY, ALABAMA, FOR FURTHER    |
|                                  | ) | PROCEEDINGS                     |

This day in open Court came the parties by their attorneys, and defendants! Plea in Abatement filed July 17, 1972, to the complaint in this cause, coming on to be heard and being argued by counsel and understood by the Court;

It is ordered and adjudged by the Court that defemdants' said Plea in Abatement filed July 17, 1972, to the complaint in this cause be, and the same is hereby sustained, and case ordered transferred to the Circuit Court of Baldwin County, Alabama, for further proceedings.

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Page            356

STATE OF ALABAMA, }  
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby  
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

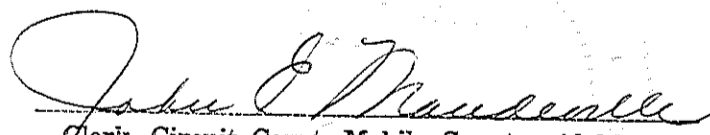
as rendered by the said Circuit Court on the 20th day of October, 19 72, in the cause  
entitled No. 39159 - RUDOLPH C. ROLISON

\_\_\_\_\_, Plaintiff,  
— versus HENRY H. SULLY, JR. and JACK E. POPE, separately and  
severally

Defendant, (~~TOGETHER WITH THE CONCLUSION THEREOF~~) as the same remains of record in this office in  
Minute Book No. 46, Page No. 356

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office  
in the City of Mobile, Alabama, on this the 20th day of October, 19 72

ATTEST:

  
Clerk, Circuit Court, Mobile County, Alabama.

**CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY**

RUDOLPH C. ROLISON

Plaintiff

No. 39159

**VS.**

vs.  
HENRY H. SULLY, JR. and JACK E. POPE, separately  
and severally

Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957  
Appvd. Sept. 20, 1957)  
(Amend Sec. 21, Title 11, Code Ala. 1940)

## BILL OF COST

(Act No. 571, Reg. Sec. Leg. 1955)  
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

| CLERK'S FEES  |         | Pltff. |    | Deft. |  | SHERIFF'S FEES   |                                  | Pltff. |    | Deft. |  |
|---|---------|--------|----|-------|--|--|----------------------------------|--------|----|-------|--|
|   |         |        |    |       |  | Mileage 14.00  |                                  |        |    |       |  |
| Suits for \$100 or less   | \$ 6.00 |        |    |       |  | Serving Summons & Complaints (2)   | \$ 3.00                          | 20     | 00 |       |  |
| Suits for over \$100 but less than \$1,000  | 10.00   |        |    |       |  | Serving Writ of Garnishment  | 3.00                             |        |    |       |  |
| Suits for \$1,000 and over  | 20.00   | 20     | 00 |       |  | Serving Sci Fa-Notices   | 3.00                             |        |    |       |  |
| Suits in detinue, ejectment, etc.   | 10.00   |        |    |       |  | Serving Writ of Discovery  | 3.00                             |        |    |       |  |
| Suits not otherwise provided  | 10.00   |        |    |       |  | Levying Attachment & Return  | 12.00                            |        |    |       |  |
| Writs, Mandamus, Prohibition, etc.  | 15.00   |        |    |       |  | Executing Writ Possession  | 10.00                            |        |    |       |  |
| Appeals from Court General  |         |        |    |       |  | Seizing personal property under Writ of Detinue  | 12.00                            |        |    |       |  |
| Sessions  | 15.00   |        |    |       |  | Serving subpoenas, each  | 1.50                             |        |    |       |  |
| Appeals from Probate Court  | 20.00   |        |    |       |  | Impanelling Jury   | .75                              |        |    |       |  |
| Appeals from JP Courts  | 6.00    |        |    |       |  | Taking & Approving Bond  | 4.00                             |        |    |       |  |
| Appeals from State Dept of Pub. Safety, and other State Agencies                  | 10.00   |        |    |       |  | Collecting Costs Execution   | 3.00                             |        |    |       |  |
| Workmen's Compensation Settle.  | 10.00   |        |    |       |  | Serving Contempt Writ  | 3.00                             |        |    |       |  |
| Garnishment on Judgment   | 6.00    |        |    |       |  | Making Deed for Property Sold  | 5.00                             |        |    |       |  |
| Order of Sale, Motions to sell.   | 6.00    |        |    |       |  | Commission, collecting money on executions, 1st \$500-5% \$500-\$1000-4%, over \$1000-3% |                                  |        |    |       |  |
| Recording executions from State Agencies  | 3.00    |        |    |       |  |  |                                  |        |    |       |  |
| Cert. Copy of Record - per 100 words  | .15     | 80     |    |       |  | Total  | \$                               | 20     | 00 |       |  |
| Taking Appeal Bond  | .75     |        |    |       |  | RECAPITULATION   |                                  |        |    |       |  |
| Record for Supreme Court etc., per 100 words                                      | .15     |        |    |       |  | Clerk  |                                  | 20     | 80 |       |  |
| Add'l Copies of Record for Supreme Court, per 100 words                           | .05     |        |    |       |  | Sheriff  | Taylor Wilkins<br>Baldwin County | 20     | 00 |       |  |
| Checking - including Reporters Transcript of Evidence                             | 10.00   |        |    |       |  | Court  |                                  |        |    |       |  |
| Certifying Abstract in lieu of Transcript on Appeal                               | 5.00    |        |    |       |  | Witness Fees   |                                  |        |    |       |  |
| Collecting Money on Judgments over 30 days old; ½ the percentage allowed Sheriffs | \$      |        |    |       |  | Commissioner's Fees  |                                  |        |    |       |  |
|   |         |        |    |       |  | Certificate of Judgment  |                                  |        |    |       |  |
|   |         |        |    |       |  | Judgment   |                                  |        |    |       |  |
|   |         |        |    |       |  | 10% Damages  |                                  |        |    |       |  |
|   |         |        |    |       |  | Interest   |                                  |        |    |       |  |
|   |         |        |    |       |  | Stenographer's fees (\$10.00 day)  |                                  |        |    |       |  |
|   |         |        |    |       |  | Hospital Records   |                                  |        |    |       |  |
|   |         |        |    |       |  | Advertisement  |                                  |        |    |       |  |
|   |         |        |    |       |  | Garnishee's fees   |                                  |        |    |       |  |
|   |         |        |    |       |  | Library Fee  | 1.50                             | 1      | 50 |       |  |
|   |         |        |    |       |  | Trial Tax (County)   | 1.50                             | 1      | 50 |       |  |
|   |         |        |    |       |  | Trial Tax (State)  | 1.50                             | 1      | 50 |       |  |
|   |         |        |    |       |  | Fair Trial Tax (State)   | 2.00                             | 2      | 00 |       |  |
|   |         |        |    |       |  | Court Adm. Fund  | 2.00                             | 2      | 00 |       |  |
| Total   | \$      | 20     | 80 |       |  |  |                                  |        |    |       |  |

I respectfully beg to advise that if this bill for costs is not paid before \_\_\_\_\_ 19\_\_\_\_\_, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk

\$49.30

RUDOLPH C. ROBINSON

Plaintiff,

vs.

HENRY SULLY, et al

Defendant

) IN THE CIRCUIT COURT OF  
) BALDWIN COUNTY, ALABAMA  
)  
) Civil Action No. 10,670  
)

MOTION TO WITHDRAW

Comes now William H. Saliba and withdraws as attorney of record for the Plaintiff, Rudolph C. Robinson.

*William H. Saliba*

William H. Saliba  
Attorney for Plaintiff  
850 Downtowner Boulevard  
Mobile, Alabama

CERTIFICATE OF SERVICE

I do hereby certify that I have on the 19 day of September, 1974, served a copy of the foregoing pleading on Counsel for all parties to this proceeding by mailing same by United States Mail, properly addressed and first class postage prepaid.

*William H. Saliba*

William H. Saliba

9-24-74 Permission granted to William H. Saliba to withdraw as attorney for Rudolph C. Robinson.  
Jeffrey J. Middleberry  
Judge

FILED

SEP 24 1974

EUNICE B. BLACKMON CIRCUIT CLERK