

CIRCUIT COURT OF BALDWIN COUNTY. ALA.

C M MC MAHEN

EQUITY SIDE.

VS

M FRANK & MOLLIE FRANK.

MOTION TO STRIKE ANSWER AND CROSS BILL OF C M MC MAHEN.

Come M Frank and Mollie Frank and move the court to strike the answer and Cross bill of C M Mc Mahen for that

1st. The said C M Mc Mahen is in default The same was not filed within thirty days from the time the said M Frank and Mollie Frank filed pleadings to conform to the order of this court transferring said case from the ~~Common~~ Law side to the Equity side of this Court.

2nd. That said answer and cross bill was not filed by the said C M Mahen within the time required by law.

3rd. That said answer and cross bill was not filed within the time required by the rules of this court.

4th. That on the 3rd. day of Jan. 1921. M Frank and Mollie Frank filed their bill of complaint against C M Mc Mahen in accordance with the order of this court heretofore made, and that the answer and cross bill of the said C M Mc Mahen was not filed within thirty days from Jan. 3r 1921.

MOLLIE FRANK &

BOND
HAWWELSWIFT

M. FRANK AND MOLLIE K. FRANK,
Complainants.

vs

C. M. McMAHEN, CROSS-COMPLAIN-
ANT.

) IN THE CIRCUIT COURT,

) BALDWIN COUNTY, ALA-

) BAMA. IN EQUITY.

Comes M. Frank and Mollie K. Frank and demurs to each count of the said Cross-bill filed here, seperately and severally and assigns the following grounds of demurer:

1st. That said cross-bill contains no equity.

2nd. Said cross-bill fails to allege that the said sums alleged to have been advanced have not been paid.

3rd. That said cross-bill seeks to recover speculative damages.

STONE & STONE &

PAGE & MOORER.

Solicitors for the Complainants.

C. M. McMahan, Cross
Complainant.)
)
vs)
)
M. Frank and Mollie K.)
Frank, Cross Respondents.)

IN THE CIRCUIT COURT,
BALDWIN COUNTY, ALA.
In Equity.

Comes the Cross Respondents and for and to the
cross bill filed in the above styled cases says as follows:

1. Cross respondent Mollie K. Frank denies any transaction mentioned in paragraph one pertaining to her,
M. Frank, Cross Respondent admits that C. M. McMahan, Cross Complainant is in the commission business in the city of Birmingham, Alabama, and that the Cross Respondent agreed to plant forty acres of potatoes and to sell the crop to the said Cross Complainant at and for the price paid for potatoes at Foley, Alabama on the same date, and further alleges that he has complied with the said agreement in every way. Cross Respondent further alleges that he sold the said potatoes to the said Cross Complainant as agreed until he discovered the Cross Complainant was not giving him, Cross Respondent the price as agreed, and that Cross Complainant agreed and advised the Cross Respondent to sell his potatoes elsewhere, provided he could obtain a better price, which he did and that Cross Respondent sustained a great loss in the potatoes sold to the said Cross Complainant, in an amount more than sufficient to pay the money received.
2. Cross Respondent, Mollie K. Frank denies each and every allegation contained in paragraph second.

Cross Respondent, M. Frank denies each and every allegation contained in said paragraph numbered Two (2) and alleges the truth to be that the said Cross Respondent at the request of the Cross Complainant agreed to plant approximately forty acres of cantaloupes and to sell the same to the said Cross Complainant and the Cross Complainant agreed to buy all of said cantaloupes as he had done for the two preceding years and that Cross Respondent grew the said cantaloupes as agreed and shipped two cars to the said Cross Complainant

which were as good as the market affords and that the said Cross Complainant knew at the time of planting the said cantaloupes were grown, and grown at his request, for a nearby market and in spite of all of this the said Cross Complainant upon receiving said cantaloupes which were agreed and understood were grown for the Birmingham market, shipped the said cantaloupes to a distant market and that the Cross Respondent barely made more than expenses out of the said first car shipped, and that the said Cross Complainant ignoring his said agreement as to selling the said cantaloupes in the said City of Birmingham shipped the second car to a distant market and that upon receipt of the return the said Cross Respondent received but approximately forty-eight (\$48.00) a great deal less than the actual cost of the crate material, not mentioning the cost of the labor in gathering and that by the Cross Complainant ignoring the agreement the Cross Respondent was damaged, by the Cross Complainant failing to finance the said cantaloupe proposition as agreed and by shipping the said cantaloupes so grown to a distant market contrary to the said agreement to the damage of Four Thousand dollars to the said Cross Respondent.

3. The Cross Respondents denies each and every allegation contained in paragraph three (3) of said Cross Complaint.

4. The Cross Respondents admit that the matters existing between Cross Complainant and the Cross Respondent were so complicated and entangled and that it was necessary to transfer said cause to the equity docket.

PAGE & MOORE,
Attorneys for Cross Respondents.

A N S W E R O F R E S P O N D E N T .

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

IN EQUITY.

M. FRANK AND MOLLIE K. FRANK, COMPLAINANTS.

VS.

C. M. McMAHEN, RESPONDENT.

The respondent answering so much of the bill exhibited in the equity division of the Circuit Court of Baldwin County, Alabama by complainants against respondent as he is advised by counsel is necessary and pertinent, answers as follows, to-wit:

1. Respondent admits the allegations of paragraph one (1) of the bill of complaint are true and correct as alleged therein.
2. Respondent admits the allegations of paragraph two (2) of the bill of complaint are true and correct as alleged therein.
3. The respondent answering paragraph three (3) of the bill of complaint admits Mollie K. Frank is a married woman and is the wife of M. Frank, and she was a married woman and was the wife of M. Frank on the date the notes sued on in the complaint filed on the law side of the Circuit Court of Baldwin County, Alabama in the matter of C. M. McMahan vs. M. Frank and Mollie K. Frank were executed. Respondent denies that if there is anything due under the said promissory notes set out and described in the complaint, or any one or all the counts of said complaint, that the debt is the debt of M. Frank and not the debt of Mollie K. Frank, and that the said Mollie K. Frank signed the said promissory notes, or any one of them, as surety for M. Frank, who is her husband.

Respondent avers the truth to be which has to do with this matter, that M. Frank is a Jew and his wife is a Gentile, and a few years ago M. Frank and Mollie K. Frank located in Baldwin County, Alabama, having moved to that county from St. Louis, Missouri, or elsewhere, and they purchased a tract of real estate near Magnolia Springs, Alabama, cleared it, built houses, etc., thereon, preparatory to engage in truck farming, and did engage in truck farming; that all the while the said Mollie K. Frank did live and cohabit with M. Frank as his wife, and M. Frank was responsible and liable for her debts for necessaries, and the said M. Frank was legally bound to support the said Mollie K.

Frank, and when the said M. Frank applied to respondent for financial aid for the year 1920, and respondent agreed to aid the said M. Frank in a financial manner, knowing the said M. Frank and Mollie K. Frank lived together and worked together, and in the purchase of the land used for truck farming, there probably was a resulting trust, even though the title to the land may have been taken in the name of M. Frank, respondent requested that M. Frank and his wife, Mollie K. Frank both sign and execute the mortgage, which was on the crop grown on said land for the year 1920, and which was pledged as security for the payment of the money, and the promissory notes, which was done before any money was advanced by respondent to either M. Frank or Mollie K. Frank, and in the event of a disagreement between M. Frank and Mollie K. Frank resulting in an equity suit to establish a resulting trust as to all the property in the name of Mollie K. Frank, if such should arise, Mollie K. Frank would be precluded, in the event of non-payment of the notes, judgment and execution to claim the property as her individual property, etc. Respondent further avers, so far as respondent is advised and believes, Mollie K. Frank owned no property in Alabama, had no financial rating or standing, such that she would be accepted as surety on any commercial paper or obligation at the time the notes in question were executed. Respondent further avers that the notes executed by M. Frank and Mollie K. Frank, on which suit was instituted, were the joint obligations of M. Frank and Mollie K. Frank, the money represented by the said notes, being paid to, and received by M. Frank and Mollie K. Frank, after the execution of the notes, used, expended and enjoyed by both, M. Frank and Mollie K. Frank.

Respondent further avers, at the time complaint was filed in the Circuit Court of Baldwin County, Alabama against M. Frank and Mollie K. Frank on the said promissory notes, an affidavit in garnishment was made and filed with the clerk of the Circuit Court as aforesaid, together with bond as required by statute, and a writ of garnishment was issued and served on the bank of Bay Minnette, Alabama and by virtue of the force and effect of said writ of garnishment, a large sum of money was caught in said bank, ostensibly the property of M. Frank and Mollie K. Frank, and thereafter to get possession of said money, under and by virtue of section 4312 of the Alabama Code (1907) the said M. Frank and Mollie K. Frank executed bond, in favor of respondent herein, in an amount double the amount of the claim and demand of respondent, M. Frank and Mollie K. Frank signing the said bond as principals, which is here referred to and made a part of this answer, and the money held by the garnishee was then paid over to M. Frank and Mollie K. Frank, one or both of them.

4. Respondent admits the mortgage mentioned in paragraph four of said bill of complaint was executed by M. Frank and Mollie K. Frank as alleged therein, but respondent deny the debt secured by said mortgage was the debt of M. Frank and not the debt of Mollie K. Frank, but avers the debt was a joint debt of M. Frank and Mollie K. Frank.

5. Respondent admits he is engaged in the produce commission business in Birmingham, Alabama and that M. Frank and Mollie K. Frank were engaged in the business of raising truck produce for the market in Baldwin County, Alabama and perhaps did buy and sell truck produce for other parties who lived near them, about which respondent was not concerned, except, perhaps in an indirect way.

6. Respondent admits that during the years 1919 and 1920 M. Frank shipped to him large quantities of produce, in car load lots, to be sold by respondent for complainants, which was done and which produce was sold and disposed of to the best advantage for complainants, each car being correctly and promptly accounted for to the said M. Frank, or complainants, there being no complaint during the year 1919 by M. Frank or complain-

ants, the first complaint being made by complainants during the year 1920 when respondent began to insist upon settlement of the account between complainants and respondent.

During the spring and summer, 1919, respondent furnished complainants large sums of money, financing complainants to enable them to carry on the business of cultivating and raising produce for the market, and between July 10th, 1919 and September 10th, 1919 respondent furnished complainants \$10,277.29. During the year 1919 complainants shipped to respondent produce amounting to the sum of \$6,938.33, leaving a balance of \$3,339.46 due respondent by complainants on December 31st, 1920 which is shown by the exhibit marked "Exhibit A" hereto attached and made a part of this answer. On November 10th, 1919 the complainant, M. Frank, wrote respondent as follows "The way I figure it, I owe you \$3,339.46 for which you hold \$3,000.00 in notes and I have a claim on the R. R. Company for \$254.00," which amount exactly agrees with the books of respondent. By the written admission of M. Frank as aforesaid, M. Frank, or, complainants, had received credit for all items which were credit items and the business for the year 1919 was settled satisfactorily.

Respondent further avers on September 8th, 1919 he entered into a written contract with M. Frank by which the said M. Frank agreed to clear forty acres of land and plant it in early sweet potatoes and to sell the crop so raised on said forty acres to respondent at the market price being paid for early sweet potatoes at Foley, Alabama at the time of marketing, which contract was signed by M. Frank and your respondent and that was the only written contract entered into by respondent with M. Frank by which respondent agreed to pay prices for any other produce prevailing at Foley, Alabama at the time of marketing.

Respondent denies he agreed to pay M. Frank prices prevailing at Foley, Alabama at the time of marketing for any other produce, except the early sweet potatoes. Respondent further says during the season of the year 1920 he had an agent at Foley, Alabama a part of the time and produce turned over to the said agent, before the agent accepted the said produce there was an agreement between said agent and M. Frank as to the price to be paid for said produce, the said agent purchasing it from the said M. Frank at the prevailing price or the contract price. Respondent further says the said M. Frank did not clear the said land and plant it in the sweet potatoes as per agreement, but during the year, 1920, the said M. Frank did ship to respondent a few sweet potatoes, but they were badly mixed, red and white potatoes together, which affected the sale of the red potatoes, there being no market for the white potatoes, and the amount sold and delivered to respondent being less than a car load.

Respondent denies he agreed to furnish M. Frank or Mollie K. Frank funds during the year 1920 with which to properly cultivate the crop of cantaloupes, but as a part of the written agreement as aforesaid, the respondent did agree that if conditions are favorable on or about December 1st, 1919 to consider favorably a proposition to furnish the said M. Frank further financial aid to build potato beds and finance other matters necessary in planting his Irish potato, cantaloupes and sweet potato crop of 1920. Respondent further says when the said M. Frank had drawn all the money respondent agreed to furnish him, he continued to draw on respondent for more money, and when M. Frank had gotten into respondent so deeply, respondent thought it advisable to honor the drafts drawn on him by M. Frank, hoping this money would aid the said M. Frank to ultimately pay respondent all the money he owed respondent, but instead of using the money to aid M. Frank in raising produce, respondent is advised M. Frank used a large part of the money to organize and finance an organization at Magnolia Springs, Alabama or else where in Baldwin County, Alabama for the purpose of buying up produce raised by other truck farmers, in competition with respondent, and respondent says he furnished the

M. Frank large sums of money in excess of the amount he agreed to furnish the said M. Frank in the written agreement. That during the year 1920 the said M. Frank agreed to clear and plant in early sweet potatoes one hundred acres of land, more or less, which respondent understood, would be sold to him, on which respondent could have made a good profit, all the while M. Frank was drawing drafts on respondent for financial assistance, he was writing respondent letters, leading respondent to believe he had planted the sweet potatoes as aforesaid, and respondent did not know until toward the end of the season the said M. Frank was using the money furnished him for ulterior purposes. Respondent further says on or about May 6th, 1920 M. Frank drew a sight draft on respondent for \$600.00, and at the same time ~~sent~~ respondent his personal check for a like amount, requesting respondent to honor the draft and when the check should be presented it would be paid; respondent honored the draft and paid it, but when the check was deposited and reached the bank on which it was drawn, the check was turned down and protested for non-payment, \$3.11 being added as protest fees, the check or protest fees never having been paid by M. Frank. Respondent further says as soon as the said M. Frank would ship a car of produce to respondent and obtain a bill of lading for same, he would begin to draw drafts on respondent, in many instances, before the car was received by respondent, M. Frank had drawn all or more money than the car of produce sold for, hence respondent was never able to credit the notes of M. Frank and Mollie K. Frank with any amount whatsoever.

Respondent further says, it is true the complainants did ship him some cantaloupes during the year 1920, which were shipped on consignment to be sold for the complainants on the Birmingham, Alabama market, but on account of the flavor, condition of the melons and the condition of the Birmingham, Alabama market, the melons did not sell, and the matter being reported to complainants by wire, complainants directed respondent to do the best he could with them, and respondent shipped the car else where in an endeavor to dispose of them for complainants, accounting to complainants for every dollar realized out of them.

In answer to the interrogatories propounded to respondent in the bill of complaint, respondent answers as follows: (a) NCL. car 39723 (7/4/1919) 620 hampers sweet potatoes @ \$3.00 per hamper \$1,860.00; (8/6/1919) ACL car No. 34094-155 hampers #1 sweet potatoes @ \$3.00 per hamper \$465.00; (8/6/1919) 7-hampers netted \$2.42; (7/31/1919) L&N. 16984-165 hampers #1 sweet potatoes @ \$3.00 per hamper \$495.00; same date--70-hampers #2 sweet potatoes (consigned) netted \$108.22; (8/23/1919) M&O. 31326-18970 sweet potatoes @ \$3.00 per cwt, \$569.10 less difference in freight \$12.58--\$556.52; (8/21/1919) ACL. 41583--186 hampers of sweet potatoes @ \$1.50--\$282.00; (9/1/1919) ACL. 39959--40 hampers sweet potatoes @ \$1.00--\$40.00. (b) No. (c) The price we paid M. Frank for his potatoes on the dates shipped. (d) M. Frank did not ship any sweet potatoes under agreement of September 8th, 1919. We know of no agreement dated September 19th, 1919. Our books are open for inspection by complainants or their counsel, which we here tender to them. (e) The written agreement of September 8th, 1919 is the only agreement we know of, and the complainant have a copy of it. M. Frank did not comply with this agreement in any wise. (f) We have no market quotation in our possession showing market prices of sweet potatoes at Foley, Alabama on date produce shipped us, but I had an agent at Foley, Alabama who competed with other buyers there and paid the market price to M. Frank for the produce sold me. (g) See answer to interrogatory "f". (h) No, I did not, but on the contrary I furnished him a great deal more than I agreed to furnish him. When he got into me so deeply, I thought it well to continue to finance him, and in this manner, assist him to pay me what he owed me, but after he had received the money, along toward the end of the season, I found he had not used the money I let him have to plant and cultivate a hundred acres, more or less, of sweet potatoes, which he gave me to understand all along he was doing, but used the money I let him have to compete with me in the same business I am engaged in. (i) None. (j) Two small cars. (k) I gave him credit for the total amount received from the

sale of the cantaloupes, less freight and other charges, and a small commission for handling them, the said cantaloupes being shipped to respondent by M. Frank to handle for him to the best advantage, on a commission basis. (l) Yes. (m) The books and account sales are tendered for inspection and examination by the complainant or his attorneys. (n) Two small cars. (o) No. (p) Have none. (q) Yes. (r) On August 20th, 1920 M. Frank shipped respondent 115 hampers of pears, which were consigned, and respondent sold them, netting M. Frank \$99.09, the amount being credited on the account of complainants. (s) No. (t) Have none.

Respondent says he made every effort to avoid litigation with the complainants on the notes, which are the basis of the suit at law in the circuit court of Baldwin County, Alabama mentioned in the second paragraph of the bill of complaint filed by complainants against respondent, but without avail and since complainants have filed this bill seeking to remove the litigation from the law side to the equity side of the docket, respondent submits himself, books, accounts, records and all other papers and respectfully asks this court to examine same and to render such decree as the evidence may warrant in this matter.

7. Respondent admits the mortgage was a cloud upon the title of the crop of complainants grown during the year 1920 on their farm in Baldwin County, Alabama, but at the time respondent accepted the mortgage, he thought perhaps the complainants would recognize the right, interest and title of respondent in and to the crop as aforesaid, but without permission from respondent, the complainants sold and disposed of the major part of the said crop else where than to respondent and did not account to respondent for the money received from the sale of it.

C R O S S B I L L.

Now comes respondent in the above cause and styles himself cross complainant and M. Frank and Mollie K. Frank as cross respondents, and exhibits this his cross bill against the cross respondents, jointly and severally, and shows to the court the following facts upon which he asks relief.

1. Cross complainant is a resident of Birmingham, Jefferson County, Alabama and is engaged in the commission business in said county, city and state, and has been so engaged for many years and on the 8th, day of September, 1919 M. Frank entered into a written contract with your cross complainant, by the terms of which he agreed to clear and plant forty (40) acres of land in early sweet potatoes during the year 1920 and to sell the crop of early sweet potatoes so raised on said land to cross complainant at the price being paid at Foley, Alabama at the time of marketing the said sweet potatoes, and cross complainant agreed in said written contract to advance to the said M. Frank \$1,500.00 to enable him to plant, cultivate and market said crop of sweet potatoes, which amount of money cross complainant furnished the said M. Frank as per agreement.

2. After the written contract mentioned in paragraph one (1) of this cross bill had been signed by the parties, the said M. Frank wrote cross complainant and otherwise contracted and agreed that if cross complainant would furnish him further financial assistance, he would plant one hundred, more or less, acres of land in Baldwin County, Alabama in early sweet potatoes and would sell the said crop so raised to cross complainant at the price being paid at the time of marketing said crop at Foley, Alabama, and in consideration of the said promises so made as aforesaid, cross complainant did advance to M. Frank during the year 1920 large sums of money, as cross complainant thought and understood, to assist the said M. Frank to plant, cultivate and market a hundred acres, more or less, of early sweet potatoes which M. Frank had agreed to sell to cross complainant, but to-

ward the end of the season of the year 1920, and after cross complainant had furnished the said M. Frank large additional sums of money for the purpose of financing the said M. Frank to plant, cultivate and market a hundred acres, more or less, of early sweet potatoes, which hundred acres included the forty acres the said M. Frank agreed to plant, cultivate and market as shown by the written contract heretofore mentioned, cross complainant found out the said M. Frank, instead of planting, cultivating and marketing one hundred acres of early sweet potatoes, as per agreement, the said M. Frank had not planted any sweet potatoes during the year 1920, and the money cross complainant had furnished the said M. Frank had been used by the said M. Frank for other ulterior purposes.

3. Cross complainant further avers, he had contracts and agreements with commission merchants in various other cities of the United States to sell them the entire crop of early sweet potatoes M. Frank had agreed to plant, cultivate and market during the year 1920, and had the said M. Frank planted, cultivated and marketed the said early sweet potatoes as per his agreement, the said hundred acres of land would have produced on an average of one hundred bushels of sweet potatoes per acre, or twenty car loads, which would have sold on the market for an average of one thousand (\$1000.00) dollars per car, and cross complainant would have made a profit or commission of ten (10%) per cent on the said sales, which is the customary profit or commission earned by commission merchants, and which is reasonable.

4. That as a proximate consequence of the said M. Frank not planting, cultivating, marketing and selling the crop of early sweet potatoes as aforesaid to cross complainant, cross complainant has lost the profit or commission on \$20,000.00 worth of early sweet potatoes, which is \$2,000.00 and which cross complainant had figured on making, estimating the aforesaid as an asset of his business for the year 1920, and which cross complainant lost as a result of the breach of the contract as aforesaid.

5. That the aforesaid contract grew out of and was a part of the account, agreement, contract and dealings of M. Frank with cross complainant during the year 1920 which M. Frank and Mollie K. Frank claimed were so mixed, complicated and entangled that a jury could not decide the issues between cross complainant and cross respondents and transferred the said matter to the equity side of the docket of this Honorable court.

THE PREMISES BEING CONSIDERED, The cross complainant respectfully prays that the process of this Honorable court issue for M. Frank and Mollie K. Frank, making each of them a party respondent herein, and requiring each of them to appear and plead, answer or demur to this cross bill within thirty days, and each and every paragraph of it, and for a failure to so plead, answer or demur to the cross bill as required by law, that a decree pro confesso be entered against each of the said cross respondents.

That in connection with the reference to be held by the Register of this Honorable Court that a reference be directed to be held to ascertain the damage cross complainant has sustained as a consequence of the breach of the contract, and in addition to the amount found, to be due cross complainant by M. Frank and Mollie K. Frank, if any, due by their said promissory notes sued on in the circuit court of Baldwin County, Alabama, that a decree for such damage as the court shall find the cross complainant has sustained as aforesaid, be entered against M. Frank, and if the relief herein prayed for does not seem just and proper, then the cross complainant prays for such other, further, general and special relief that the court may find from the evidence the cross complainant is entitled to receive. As in duty bound your cross complainant will ever pray, etc.

Grace + Simpson.

Colicitors for respondent and
Cross Complainant.

NOTE. The cross respondents are required to answer this cross bill and each and every allegation of same, from paragraph one to paragraph five inclusive, but not under oath, answer under oath being expressly waived.

Groce & Simpson,

Solicitors for Cross Complainant.

Distribution Sheet

Contents

Lot No.

Shipper

Car No.

Shipped from

Date Shipped

DATE	Number of Articles	Kind of Packages	COMMODITY	Quantity	Price	Inv. No.	EXTENSIONS
			M. Frank, Magnolia Springs, Ala., in account with C. M. McMahan, Birmingham, Ala. Year 1919.				
<u>Debits</u>							
March 21st,			draft paid covered by note			CLH 3501	\$1,000.00
May 22nd,			check #3704				600.00
July 10th,			Interest on \$600.00 May 22nd to July 10th 6%				4.90
July 12th,			draft paid by check #3989				500.00
July 24th,			draft paid by check #4059				600.00
July 26th,			draft paid by check #4079				250.00
July 26th,			interest \$1,000.00 6% 127 days 3/21 to 7/26-				21.18
July 30th,			draft paid by check #4096				1,000.00
Aug. 4th,			draft paid by check #4151				610.00
Aug. 9th,			draft paid by check #4161				500.00
Aug. 13th,			2 hampers sweets short in L&N 16984				6.35
Aug. 13th,			See account sales attached				3.36
Aug. 13th,			draft paid by check #4162				500.00
Aug. 14th,			draft paid by check #4180				750.00
Aug. 22nd,			car potatoes bought ACL 41583 check #4208				282.00
Aug. 27th,			car potatoes on acct. 21326 check #4219				300.00
Sept. 6th,			draft paid by check #4257				300.00
Sept. 8th,			draft paid by check #4291				100.00
Sept. 8th,			check #4292				500.00
Oct. 4th,			draft paid by check #4425				500.00
Oct. 15th,			draft paid by check #4471				300.00
Oct. 31st,			draft paid by check #4547				500.00
Nov. 4th,			draft paid by check #4558				500.00
Nov. 10th,			draft paid by check #4593				650.00
			Total debits				10,277.79
							10,277.79
<u>Credits</u>							
July 10th,			Sales NYC 152552				705.40
July 18th,			Sales C&EI 45776				602.37
July 24th,			Sales NYC 144511				370.78
July 24th,			Sales NYC 155414				619.82
July 28th,			Sales NP 95283				363.21
Aug. 1st,			Bought ACL 39723				1,860.00
Aug. 13th,			Sales L&N 16984				108.22
Aug. 13th,			Sales ACL 34094				2.42
Aug. 13th,			Bought ACL 34094				465.00
Aug. 13th,			Bought L&N 16984				495.00
Aug. 20th,			Sales 115 hampers pears				99.09
Aug. 27th,			Bought M&O 21326 \$569.10 less freight a/c less than minimum 12.58				556.52
Aug. 27th,			Bought ACL 41583				282.00
Sept. 11th,			Bought L&N 15148				368.50
Sept. 11th,			Bought 40 hampers sweets @ \$1.00				40.00
			Total Credits				6,938.33
			Balance due us January 1st, 1920-----				3,339.46

Ex "A"

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon M. Frank and Mollie K Frank,

of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer,

plead or demur, without oath, to ^{Cross} a Bill of Complaint lately exhibited by

C.M. Mc Mahon, Respondent,

against said M. Frank and Mollie K Frank,

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 7th day of February,

1921.



Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

Serve on _____

Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

C. Mc Mahon,

vs.

M. Frank and Mollie K
Frank.

*Recd Copy on Mr Frank
& Mollie K Frank*

Grace and Simpson
Solicitor for ~~Complainant~~ Cross Complainant and Respondents

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this _____
day of _____ 1921

Sheriff

Executed this 7th day of
Sept 1921

by leaving a copy of the within summons with

Defendant

X
Sheriff

By _____
Deputy Sheriff

*Revenue funds accepted for Mr. Frank
and Mollie K Frank this 26th Feb. 1921*

*James Stewart
Solicitor for Mollie
K & Mr Frank.*

RECORDED

TO THE HONORABLE, THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AND
TO THE HON. JOHN D. LEIGH, AS JUDGE THEREOF, IN EQUITY:-

Your Complainants, M. Frank and Mollie K. Frank, humbly
complaining respectfully represent and show unto your Honor and unto
the Court as follows:

FIRST.

That they are each over the age of Twenty-one years and
each bona fide resident citizens of the County of Baldwin, State of Alabama.
That C.M. McMahan is over the age of Twenty-one years and is a resident cit-
izen of the County of Jefferson, State of Alabama.

SECOND.

That on, to-wit: the 6th day of September, 1920, C.M. McMahan
instituted in the Circuit Court of Baldwin County, Alabama, at law a suit
against your Complainants, a copy of which S^ummons and Complaint ~~is~~ filed
in the said cause is hereto attached and marked "Exhibit A", which S^ummons
and Complaint is attached for the information of this Court, all of the
material allegations contained in the said Complaint being hereby specifi-
cally denied.

That within the time provided by law your Complainants appeared
in the said cause and filed pleass^u hereto and thereafter, and on, to wit:
the 25th day of November, 1920, an order ~~was~~ made in this cause upon motion
filed by these Complainants, transferring the said cause of C.M. McMahan,
Plaintiff Vs. M. Frank and Mollie K. Frank, these Complainants, from the law
side of the docket to the equity side of this Honorable Court, which Motions,
orders and decrees for the information of the Court are hereby referred to,
as though a part hereof.

THIRD.

The Complainant, Mollie J. Frank, is a married woman and is the
wife of M. Frank, and was a married woman on the date of the execution of the
notes sued on and described in the S^ummons and Complaint, a copy of which is
hereto attached, as "Exhibit A", and at the time of the creation of the debts
sought to be recovered by the said S^ummons and Complaint, and Complainants
aver that if there is anything due under the said promissory notes set out
and described in the said Complaint and anything due under the other counts

of the said Complaint that the said debt is due from the said M. Frank and not from the said Mollie Frank and the execution of the said notes by the said Mollie K. Frank was done as a surety for the said M. Frank and no part of the debt sought to be recovered in this action is the debt of the said Mollie K. Frank, but is solely the debt of M. Frank, her husband, and the said Mollie K. Frank is not indebted to the said C.M. McMahan in any sum whatsoever.

FOURTH.

That on, to-wit: September 8, 1919, M. Frank and C.M. McMahan entered into a contract, a copy of which said contract is hereto attached and marked "Exhibit B" and made a part hereof, as though fully set out herein, leave of reference thereto being prayed as often as maybe necessary, and that, thereafter and on, to-wit: the 30th day of January, 1920, Complainants made and executed a mortgage to the Respondent, C.M. McMahan, a copy of which said mortgage is hereto attached and marked, "Exhibit C" and made a part hereof as though fully set out herein, leave of reference thereto being prayed as often as may be necessary.

And Complainants aver that all of the debt created and evidenced by "Exhibit C" hereto attached, is the debt of M. Frank and no part of the same is the debt of the said Mollie K. Frank.

FIFTH.

That the said C.M. McMahan is engaged in the wholesale produce business in the City of Birmingham, and the Respondent, M. Frank, is engaged in the business of raising produce of all kinds in the County of Baldwin, State of Alabama, and that in addition to raising produce he buys and sells produce of all kinds.

SIXTH.

That during the years 1919 and 1920, Complainant M. Frank shipped to the said C.M. McMahan large quantities of produce in carload lots, consisting of Irish potatoes, cantaloupes, and sweet potatoes on an agreement with the said C.M. McMahan, as shown by "Exhibit B" hereto attached, that the said C.M. McMahan should pay to the Complainant, M. Frank, for such produce so shipped to him the market price at Foley, Alabama, for all such produce so shipped.

And Complainants further aver that if the said C.M.McMahan had given Complainant, M.Frank credit for all such produce so shipped to him by the said M.Frank at the market price at Foley, Alabama, that the said Complainant would not be indebted to the said C.M.McMahan in any sum, but, on the other hand, the said C.M.McMahan would be indebted to the Complainant, M.Frank. That pursuant to the said agreement, copy of which is attached as "Exhibit B", Complainant, M.Frank shipped to the said C.M.McMahan Eight carloads of Sweet Potatoes at divers and sundry times and the said C.M.McMahan has not given the said M. Frank credit for the said Sweet Potatoes so received by him at the market price at Foley, Alabama. And that, acting under an agreement with the said C.M.McMahan the Complainant, M.Frank, planted a large crop of cantaloups in Baldwin County, Alabama, which said cantaloups the said C.M.McMahan agreed to sell for the said M.Frank on the Birmingham market, and agreed to furnish the said M. Frank funds with which to properly cultivate and fertilize the said cantaloups, and that the said C.M.McMahan has wholly failed to furnish the said funds with which to properly cultivate and fertilize the said cantaloups and that by reason of the failure of the said C.M.McMahan to furnish the said funds that a large part of the said crop was wholly lost to the Complainant, M.Frank. And the Complainant further avers that during the year 1920 he shipped to the said C.M.McMahan a number of cars of cantaloups and the said C.M.McMahan has wholly failed and refused to credit this Complainant, M. Frank, with the market price of the said cantaloups at Birmingham, Alabama, in accordance with his said agreement. And Complainants further aver that the said C.M.McMahan has full and complete knowledge of the market price of the said cantaloups so shipped to him at Birmingham, Alabama, and that Complainants have not such knowledge. That the said C.M.McMahan has in his possession books and records of the receipt and disposition of the said Sweet Potatoes shipped to him by the said M.Frank during the years 1919 and 1920, and to the end that justice may be done in the premises it is necessary for a discovery from the said C.M.McMahan and that he be required to discover into this Honorable Court his records and books, showing the receipt by him of all produce of all kinds shipped to him by the said M.Frank during the years 1919 and 1920, and to such end the Complainants propound to the said C.M.McMahan the following Interrogatories:-

(a) How many potatoes were shipped you by the Complainant, M. Frank during the year 1919? (b) Did you agree prior to the time the said potatoes were shipped you to pay the said M. Frank the market price for the said Potatoes at Foley, Alabama? (c) What was the market price of potatoes at Foley, Alabama on the dates the potatoes were shipped you by the said M. Frank? (d) Have you books and records showing the receipt by you of potatoes shipped you by M. Frank under a contract dated September 19, 1919, whereby you agreed to pay him the market price for the said potatoes at Foley, Alabama? (e) Please produce such books and records showing all such transactions between you and the said M. Frank? (f) Have you in your possession quotations of potatoes showing the market value of such potatoes and the dates such potatoes shipped to you by the said M. Frank were received? (g) Please produce such market quotations into this Court. (h) Did you fail or refuse to furnish M. Frank all the money you agreed to furnish him under a mortgage executed by these Complainants under date of January 30, 1920? (i) How much money did you fail to furnish the Complainant, M. Frank that you agreed to furnish under the said mortgage? (j) How many cantaloups were shipped you by the said M. Frank during the year 1920? (k) Did you give M. Frank credit for the said cantaloups at the market price? (l) Have you in your possession records and books showing at what price the said cantaloups were sold? (m) If so, please produce such records and books into this Court. (n) How many carloads of cantaloups were shipped you by the said M. Frank during the year 1920? (o) Have you in your possession market quotations of cantaloups in Birmingham, Alabama, during the time these cantaloups were being shipped you by the said M. Frank? (p) Please produce such market quotations. (q) Please state whether or not M. Frank shipped you any other produce other than above inquired about during the years 1919 and 1920. (r) If so, please state what it was, and state the amount of such produce and if you have records and books of the sales of such produce please produce the same into Court. (s) Have you the market quotations showing the market value of such produce so received by you from the said M. Frank? (t) If so, please produce such market quotations.

SIXTH.

Complainants further aver that there are mutual accounts existing between the Complainant, M. Frank, and the said C.M. McMahan, extending over a

period of Two years and more, whereby the Complainant M. Frank has shipped to the said C.M. McMahan produce of different kinds at divers and sundry different dates and the said C.M. McMahan has paid to the said M. Frank at divers and different dates during the said time different sums of money and that a Court of Law is without power and jurisdiction to state the said mutual account between the said M. Frank and the said C.M. McMahan and the said Complainants further avers should a true statement of the mutual account existing between the said M. Frank and C.M. McMahan be made that the said M. Frank would not be indebted to the said C.M. McMahan in any sum, but Complainants hereby submit themselves to the jurisdiction of this Honorable Court and aver and state that they are ready, willing, able, and hereby offer to pay any indebtedness which may be found to be due from the said Complainants to the said C.M. McMahan.

SEVENTH.

Complainants further aver that the said mortgage, copy of which is hereto attached as "Exhibit C", is a cloud upon the title of Complainants to all crops grown by them for the year 1920 in Baldwin County, Alabama, and that by virtue of the said mortgage Complainants have great trouble in disposing of any such crops and are greatly handicapped in the running and conducting of the produce business, and that Complainants aver that the said mortgage has been fully paid and satisfied. And Complainants further aver that the said mortgage is duly recorded in the Office of the Judge of Probate of Baldwin County, Alabama, and that, notwithstanding the fact that the same has been paid and satisfied, the said C.M. McMahan has not cancelled and satisfied the said mortgage on the records of Baldwin County as required by law.

PRAYER FOR PROCESS.

The premises considered, Complainants respectfully pray that the said C.M. McMahan be made a party Respondent to this Bill of Complaint and that he be required to demur, plead to or answer the same within the time and under the pains and penalties of this honorable Court or that the same be forever confessed.

PRAYER FOR RELIEF.

That this Honorable Court will order and direct a reference to be held by the Register of this Honorable Court, and that an account be stated between the Complainant and Respondents and that if it is ascertained on the said account that the said C.M. McMahan is indebted to the Complainants, or

either of them, that they be given a decree against him.

That on the final hearing of this cause that the said mortgage, copy of which is attached as "Exhibit C", be cancelled and that the said G.M. McMahan be required by a proper decree of this Honorable Court to mark the same satisfied on the records of Baldwin County, Alabama, where the same is recorded.

That, if Complainants are mistaken in the relief above prayed for, that your Honor will grant unto them such other, further, different and general relief as in justice and equity they may be entitled to receive, under the allegations and proof they will ever pray, etc.

STONE & STONE,

PAGE & MOORER,

Solicitors for Complainants.

FOOT NOTE: The Respondent is required to answer each and every allegation in the foregoing Bill of Complaint, numbered from First to Seventh, both inclusive, but not under oath, answer under oath being hereby expressly waived.

STONE & STONE,

PAGE & MOORER,

Solicitors for Complainants.

reasonable attorney's fee in said cause.

COUNT 3. And for a further count to this complaint, the plaintiff claims of the defendants, jointly and severally, the sum of One Thousand Five Hundred(\$1,500.00) Dollars due by their promissory note made by them on the 8th day of September, 1919, payable to the order of the plaintiff, the said promissory note being due and payable on the 1st day of June, 1920, with interest thereon.

And the plaintiff avers that in said note and as a part of the consideration thereof, the defendants expressly waived their right to claim personal property as exempt to them under the Constitution and Laws of the State of Alabama, and in the body of the said promissory note and as a part of the consideration of the said promissory note, the defendants agreed to pay an Attorney's fee for the collection thereof if the note was not paid at maturity; and plaintiff claims the sum of One Hundred Seventy-five(\$175.00) Dollars as such attorney's fee.

COUNT 4. And for a further count to this complaint, the plaintiff claims of the defendants, jointly and severally, the sum of Four Thousand Three Hundred Thirty-nine and 46/100(\$4,339.46)Dollars for money had and received by the defendants on the _____ day of _____, 1919-20, which sums of money, with the interest thereon, is still unpaid.

Grace & Simpson,

Attorneys for Plaintiff.

Filed in Office, this 6th day
of September, 1920.

T.W. Richardson,
Clerk.

Stat. of Alabama
County of Jefferson.

EXHIBIT "B".

To whom it may concern:

This agreement made and entered into by and between M. Frank, of Magnolia Springs, Ala., of the first part and C. M. McMahan of Birmingham, Ala., of the second part.

Whereas, the said M. Frank, of the first part is desirous of securing a loan of the said C. M. McMahan, of ~~\$1500.00~~ \$1500.00, (fifteen hundred dollars) for the purpose of clearing and improving 40 acres of land bought of Mr. Cooney, located on the highway between Magnolia Springs and Foley, Ala., to be planted in early sweet potatoes and the said M. Frank, agrees to sell the said crop of potatoes to the said C. M. McMahan, at the market price being paid at Foley, Ala., at the time of marketing, the proceeds to be applied on payment of the said \$1500.00 (fifteen hundred dollars) covered by a note bearing date same as this contract and signed by Mr. and Mrs. M. Frank, due June 1st, 1920, and in consideration of the above agreement the said C. M. McMahan agrees and does loan to the said M. Frank, the sum of \$1500.00, (fifteen hundred dollars) to be furnished as needed during the months of September, October and November 1919, and the said C. M. McMahan further agrees that if conditions are favorable on or about Dec. 1st, 1919, to consider favorably a proposition to furnish the said M. Frank, further financial aid to build potato beds and finance other matter necessary in planting his Irish potatoes, cantaloupes and sweet potato crop of 1920.

Signed M. Frank, (writing)
Party First Part

Signed C. M. McMahan, (writing)
Party Second Part

Witness _____

(Copy)

The State of Alabama

County

Exhibit "C"

On or before the _____ day of _____ 191_____ promise to pay to the order of C. M. McMahan, Birmingham, Ala., the sum of six thousand dollars--- for value received.

The right of exemption under the constitution and laws of Alabama is hereby waived as provided for in article 10 section 7 in the constitution and chapter 2, title 6 part 2, of the code of Alabama,

A part of the consideration of this obligation is an advancement made by the said C. M. McMahan, of Birmingham, Ala., to M. Frank, of Magnolia Springs, Ala., of money and provisions to the above amount bonified for the purpose of making a crop for the year 191 and ~~which~~ without which it would not be _____ power to secure the requirements to make such crop and we hereby declare the aforesaid advances or the amount thereof shall constitute a lien on all the crop grown by M. Frank, in Baldwin County, Alabama, in the year 1920, in accordance with an act approved Jany. 15th, 1866; and to further the payment of the aforesaid obligation according to the tenor and effect thereof hereby also bargain, sell and convey to said _____ agent _____ or assign~~the~~ the following described real and personal property to wit;

The within mortgage includes and covers the following notes of Mr. Frank, and wife to C. M. McMahan, dates as follows, \$1500.00 Sept. 8th, 1919, \$1839.46 Nov. 11th, 1919, \$1000.00 Jany. 20th, 1920 and \$1000.00 note to be signed and delivered Feby. 20th, 1920 in exchange for cash to be furnished by C. M. McMahan, the balance \$650.00 covered by this mortgage will be furnished by C. M. McMahan, at his option during the month of March, if conditions are satisfactory and the money should be required to finish the crop mentioned above.

To have and to hold to the said _____ heir and assign upon the following conditions viz if _____ pay said debt and interest with the cost of execution of this trust including recording fees ~~xxx~~ or or before the same falls due, then this conveyance ~~this~~ null and void. But if _____ ~~xxx~~ make default in payment of said debt failing to pay the same when it comes due or such other debt or debts as may become due and payable under the provisions of this conveyance, hereinafter mentioned, then the said _____ agent---or assign--are hereby authorized to take possession of the property hereinafter mentioned and sell the same as being best giving as much as five days notice of the time, place and terms of said sale, by posting written notices in three public places in said County and apply the proceeds of said sale to the payment of all cost and expenses incident to the ~~the~~ execution of this trust and if suit is brought by _____ to recover the said property from ~~xxxxx~~ or if _____ at any expense whatever in obtaining possession of said property then such expenses are to be paid including all attorneys fees court costs and other expenses the said _____ may incur, and said expenses cost etc. are to be paid out of the first money realized from the first sale. After such expenses, costs, etc. are paid the balance of the proceeds is to be applied to the payment of said debt and interest thereon and whatever remains after such application shall be paid to _____. And it is further agreed that if the said ~~xxx~~ shall advance to _____ during the present year any money provisions or merchandise of any description over and above the amount of said note, this instrument shall also stand as security for same as fully as if included in said note.

And _____ do hereby declare that the above conveyed property is _____ own and that there is no lien or incumbrance on the same.

In further consideration of the premises _____ hereby also declare that there will be no outside crops to be claimed by wife or daughter mother or sister or any ~~xxx~~ one whatsoever, but that this instrument is to constitute a lien on the entire crop raised on _____ place this year.

Witness ^{our} ~~by~~ hands and seals this 30 day of January 1920.

Attest;

Chas. Lenoir,
Notary Public

M. Frank, (Seal)
Mollie K. Frank, (Seal)

The State of Alabama
Baldwin County.

I Chas. Lenoir a Notary Public in and for said State and County do hereby certify that on the 30th day of January 1920, came before me the within named M. Frank 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 this conveyance that he executed same voluntarily on the day the same bears date.

Given under my hand this 30th day of January ~~192~~ 1920.

Chas. Lenoir,
Notary Public.

State of Alabama
Baldwin County

I James M. Voltz, Judge of Probate for said County hereby certify that the following privilege tax has been paid on the within instrument as required by acts 1902 and 1903 vis \$9.00

Jas. M. Voltz,
Judge of Probate
by J. L. Keasler,
Clark.

I hereby certify that the privilege or mortgage tax required to be paid on this instrument was paid by the lender.

Signed C. M. McMahan,
By C. M. McMahan, Jr. Atty.

The State of Alabama
County

From

To

Crop Lien

State of Alabama
Baldwin County

Office of the Judge of Probate

I hereby certify that the within lien was filed in this office for record on the 18th day of February a. d. 1920, at 9:53 O'clock AM and duly recorded in book 24 mtgs of deeds page 289 and examined.

Jas. M. Coltz,
Judge of Probate
by J. L. Keasler, Clark.

McMahon
vs
Frank et al.

was of plain
to interpleader

Nov. 25th

McMahon
vs
Frank et al.

M. Frank, et al,

vs.

Mrs. C. M. McMahan.

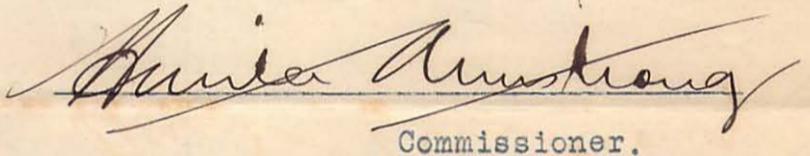
) Circuit Court of Baldwin County.

) In Equity.

To M. Frank and Mollie K. Frank, or their solicitors of record,
Page & Moorer:

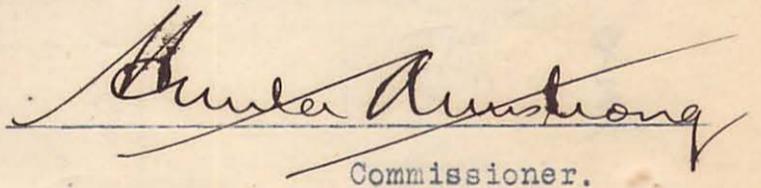
Take notice that pursuant to a commission issued by
W. Richerson, Clerk of the Circuit Court of Baldwin County, the
undersigned J. Hunter Armstrong will, on the 19th day of May, 1921,
at 10:00 o'clock, A. M. , at his office #306 Court House, Birmingham,
Jefferson County, Alabama, proceed to take the testimony of C. M.
McMahan, H. R. Merrill, C. M. McMahan, Jr., Vassar L. Allen and
D. D. Trimble, all of Birmingham, Alabama, and being witnesses for
the respondent, C. M. McMahan, at which time you may be present
if you choose so to do.

Witness this the 14th day of May, 1921.


Commissioner.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are commanded to execute the foregoing and due return
thereof make to the undersigned as Commissioner at 306 Court House
in the City of Birmingham, Jefferson County, Alabama.


Commissioner.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.
IN EQUITY.

M. FRANK AND MOLLIE K. FRANK, COMPLAINANTS.

VS.

C. M. McMAHEN, RESPONDENT.

STATE OF ALABAMA.

JEFFERSON COUNTY.

Personally appeared before me the undersigned authority in and for the aforesaid state and county, C. M. McMahan, who being by me duly sworn, deposes, and says under oath that he is the respondent in the matter of M. Frank and Mollie K. Frank vs. C. M. McMahan in the Circuit Court of Baldwin County, Alabama and that no summons or other process has been ^{ever} served on him by any officer requiring him to answer the said bill of complaint; that on or about the 10th, day of January, 1921 he was shown a copy of a bill of complaint by M. B. Grace, one of his attorneys, which it is alleged M. Frank and Mollie K. Frank had filed in the Circuit Court of Baldwin County, Alabama against him. That as soon as he was shown the aforesaid copy of said bill of complaint, he set to work getting together the data and information demanded and called for in the said bill, and furnished same to his attorneys to file the necessary answer and cross bill in the above cause. That affiant has no agent in Baldwin County, Alabama on whom summons or other process may be executed.

C. M. McMahan

Sworn and subscribed to before me this April 28th, 1921.

M. B. Grace

Notary Public.

TWENTY-FIRST JUDICIAL CIRCUIT
OF ALABAMA
JOHN D. LEIGH, JUDGE
BREWTON, ALA.

June 15, 1921.

Hon. T. W. Richerson
Bay Minette, Alabama.

Dear Mr. Richerson:-

RE: M. Frank and Mollie K. Frank vs.
C. M. McManen.

I found these papers on my desk in cleaning off the same
and I am sending it to you so it can be placed with the other
papers in the file.

With regards and best wishes, I am,

Yours very truly,

John D. Leigh

jdl/em

C.M. McMahan,

Plaintiff.

Vs.

M. Frank and Mollie K. Frank,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

et cetera
Frank
Mollie K. Frank
Bill
15 days

Request and Motion having been made to the Court to extend the time of the Respondents, M. Frank and Mollie K. Frank to make their pleading conform to the rules of the Chancery practice in this State, and to file their Bill in this cause, upon consideration of the said request and Motion it is

ORDERED, ADJUDGED AND DECREED by the Court that the time of the said M. Frank and Mollie K. Frank to make such pleading conform to the said Chancery practice and to file their original Bill in this cause be, and the same hereby is, extended for a period of Fifteen days from this day.

Dated, this the 24th day of December, 1920.

John D. Leigh
Judge of the Twenty-first Judicial
Circuit of Alabama.

RECORDED

M. Frank & Mollie K. Frank, Complainants.

vs.

No. _____

C. M. McMahan, Respondent.

The demurrer of cross respondents to the cross bill of cross complainants filed in this cause coming on to be heard by the court, in vacation at Brewton, Alabama, and it appearing to the court that the required written notice has been given the cross respondents of the time and place of submitting the said matter for an order, and the court having heard and considered the said demurrer, it is ordered, adjudged and decreed that the said demurrer is not well taken, and same is overruled, to which action of the court the cross respondents then and there jointly and severally excepted to the ruling of the court. It is further ordered, adjudged and decreed that the cross respondents be given ten (10) days from this day in which to answer the said cross bill.

John N. Leigh

Circuit Judge.

Dated April ~~1921~~
1921

Filed
Apr 28 1921
*J. W. Reccinn
Register*

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.
IN EQUITY.

M. FRANK AND MOLLIE K. FRANK.

VS.

NO 288.

C. M. McMAHEN.

This cause coming on to be heard, was submitted upon the pleadings and agreement of parties. It was made to appear to the court, this suit was first commenced on the law side of the docket by C. M. McMahan filing suit against M. Frank and Mollie K. Frank on a series of waive notes, affidavit being duly made, writs of garnishments were issued according to law, and M. Frank and Mollie K. Frank executed bond under the provisions of section 4313 of the Code of Alabama, 1907, with waiver of constitutional and statutory exemptions as to personal property, payable to C. M. McMahan, in double the amount of his demand, with W. D. Stapleton and Charles Lenoir, as sureties; that on November 23rd, 1920 defendants in said suit made and presented to the court a motion, seeking to transfer the said suit from the law side to the equity side of the docket, which motion was duly sustained and order entered accordingly; whereupon the proper bill of complaint was duly filed, answer and cross bill and answer to cross bill, and the said cause having been settled by agreement of the parties, this agreed decree is entered. It being agreed that C. M. McMahan shall have judgment or decree against M. Frank and Mollie K. Frank and their sureties, for the sum of Three Thousand Five Hundred Forty-six Dollars, it is therefore considered by the court, and so ordered, adjudged and decreed that C. M. McMahan do have and recover of, from and against M. Frank and Mollie K. Frank, principals, and W. D. Stapleton and Charles Lenoir, obligors in said bond, with waiver of exemptions as to personal property under the constitution and laws of Alabama, jointly and severally, the sum of Three Thousand Five Hundred Forty-six (\$3,546.00) Dollars, and all court cost in both suits, for the collection of which execution may issue.

Ordered, adjudged and decreed this June 2nd, 1921.

John D. Leigh
Circuit Judge.

Old process & upon stay for C. M. McMahan.

M. Frank & Mollie K. Frank, Complainants.

vs.

C. M. McMahan, Respondent.

The motion of Mollie K. Frank to to strike the answer and cross bill of respondent, C. M. McMahan, in the above style cause coming on to be heard in vacation, at Brewton, Alabama and it appearing that written notice has been served on the said Mollie K. Frank giving her notice of the time and place of of hearing and submitting said motion, and the court having heard and considered said motion, it is the order, judgment and decree of the court that the said motion be and same is overruled, to which action of the court the movant then and there excepted.

John D. Leigh

Circuit Judge.

Dated April 18/1921

[Faint handwritten notes and scribbles, possibly a docket or ledger, including numbers and names.]

RECORDED

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

IN EQUITY.

M. FRANK AND MOLLIE K. FRANK, COMPLAINANTS.

VS.

C. M. McMAHEN, RESPONDENT.

STATE OF ALABAMA.

JEFFERSON COUNTY.

Personally appeared before me the undersigned authority in and for the aforesaid state and county, M. B. Grace, who being by me duly sworn, deposes, and says under oath that he is one of the attorneys representing the respondent in the above style cause, and on Thanksgiving day in November, 1920, the complainants in the above style cause made a motion in the Circuit Court of Baldwin County, Alabama, in open court, seeking to have the suit of C. M. McMahan vs. M. Frank and Mollie K. Frank transferred from the law side of the docket to the equity side of the docket, alleging among other things, the account between plaintiff and defendants was mixed, complicated, etc., where upon the court sustained the motion and entered an order giving the movants thirty days from said date in which to file their bill of complainant on the equity side of the docket of said court, the time fixed in said order expiring on or about December 24th, 1920; that on January 3rd, 1921, the complainants filed their bill of complaint, as shown by the filing on copy of said bill; that respondent resides in Jefferson County, Alabama; that no summons has ever been served on respondent in this cause, but on or about the 7th, day of January, 1921, affiant received by United States mail from T. W. Richerson, Register in Chancery of Baldwin County, Alabama, a copy of the bill filed by complainants; that on or about February 4th, 1921 affiant mailed to T. W. Richerson, Register in Chancery of Baldwin County, Alabama the answer and cross bill of respondent, requesting that it be filed and process executed on the cross respondents. Affiant further says the answer was filed within thirty days after receiving copy of the bill of complainant as aforesaid.

M. B. Grace

Sworn and subscribed to before me this April 28th, 1921.

J. W. Rose
Notary Public.

State of Alabama.

Mc Mahan vs Mollie Frank & M Frank

Baldwin County.

Circuit Court.

We, the undersigned counsel of record for defendants in above cause
herewith withdraw our appearance in above cause.

April 13th. 1921.

Stoue & Stoue

Ray. Thomas

C.M.Mc Mahen.

vs

M.Frank and Mollie Frank.

Circuit Court of Baldwin County

Alabama, In Equity.

Motion to strike answer and cross bill of C.M.Mc Mahen.

Comes M.Frank and Mollie Frank and move the Court to strike the answer and cross bill of C.M.Mc Mahen for that.

1st. The said C.M.Mc Mahen is in default.

The same was not filed within thirty days from the time the said M.Frank & Mollie-Frank filed pleadings to conform to the order of this Court transferring said cause from the Law side of the Equity side of this Court.

2nd. That said answer and cross bill was not filed by the said C.M.Mc Mahen within the time required by law.

3rd. That said answer and cross bill was not filed within the time required by the rules of this Court.

4th. That on the 3rd. day of Jan.1921. M.Frank and Mollie Frank filed their bill of complaint against C.M.Mc Mahen in accordance with the order of this Court hertofore made, and that the answer and cross bill of the said C.M.Mc Mahen was not filed within thirty days from Jan.3 rd 1921.

Mollie Frank &

In the equity division of the Circuit Court of
Baldwin County, Alabama.

M. Frank & Mollie K. Frank, Complainants.

vs.

C. M. McMahan, Respondent.

To Mrs. Mollie K. Frank:-

Take notice the respondent in the above style cause will submit the motion filed by you to strike the answer and cross bill of respondent, to the trial judge of this circuit, in vacation, at his home in the town of Brewton, Alabama, on Saturday, April 16th, 1921, for an order either sustaining or overruling the said motion.

Groce & Simpson,
Attorneys for Respondent

We certify we have served a copy of the above motion on Mollie K. Frank, one of the complainants in the cause of M. Frank and Mollie K. Frank vs. C. M. McMahan by mailing her a true and perfect copy of said notice to her address, Magnolia Springs, Alabama, postage prepaid, by depositing the said letter in the post office at Birmingham, Alabama containing said motion, properly addressed and stamped as above.

This April 12th, 1921.

Groce & Simpson,
Attorneys for Respondent.

CLASS OF SERVICE	SYMBOL
Telegram	
Day Letter	Blue
Night Message	Nite
Night Letter	N L

If none of these three symbols appears after the check (number of words) this is a telegram. Otherwise its character is indicated by the symbol appearing after the check.

July 1st 1921

WESTERN UNION TELEGRAM



NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

CLASS OF SERVICE	SYMBOL
Telegram	
Day Letter	Blue
Night Message	Nite
Night Letter	N L

If none of these three symbols appears after the check (number of words) this is a telegram. Otherwise its character is indicated by the symbol appearing after the check.

RECEIVED AT 1919 FIRST AVE., BIRMINGHAM, ALA. ALWAYS OPEN

A35MY 40

221P before
1921 MAY 15 PM 6 59
5771A
RW

RAYMINETTE ALA 525P' 15

M B GRACE

CARE GRACE AND SIMPSON JEFFERSON COUNTY BANK BLDG BIRMINGHAM ALA

FRANK AGREES TO SETTLE FOR THIRTY FIVE HUNDRED FORTY SIX DOLLARS
AND TO PAY BY JUNE 1ST AND IF NOT PAID BY THIS TIME YOU ARE TO TAKE
JUDGEMENT FOR SAID AMOUNT COURT WILL BE IN SESSION UNTIL THEN

M FRANK.

TELEPHONE NO.	
TELEPHONED TO	
TIME DELIVERED	
BY	TO BE
SENT TO	
DELIVER	

CLASS OF SERVICE	SYMBOL
Telegram	
Day Letter	Blue
Night Message	Nite
Night Letter	N L

If none of these three symbols appears after the check (number of words) this is a telegram. Otherwise its character is indicated by the symbol appearing after the check.

WESTERN UNION



TELEGRAM

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

CLASS OF SERVICE	SYMBOL
Telegram	
Day Letter	Blue
Night Message	Nite
Night Letter	N L

If none of these three symbols appears after the check (number of words) this is a telegram. Otherwise its character is indicated by the symbol appearing after the check.

RECEIVED AT JEFFERSON CO. BANK BLDG., BIRMINGHAM, ALA
3BM MW 46

BAYMINETTE ALA 810A MAY 16 1921

M B GRACE

CARE GRACE AND SIMPSON JEFFERSON CO BANK BLDG BIRMINGHAM ALA

PLEASE ADDRESS YOUR REPLY TO FRANKS TELEGRAM THROUGH US WE HAD HIM
SIGN TELEGRAM TO MAKE HIS AGREEMENT CONSENTING TO JUDGEMENT BINDING
WE COULD HARDLY GET THROUGH TESTIMONY BEFORE JUNE FIRST AND HE AGREES
TO GIVE JUDGEMENT BY CONSENT ON THIS DATE IF NOT PAID BEFORE

PAGE AND MOORER

946A

EDWIN C. PAGE
HENRY D. MOORER

PAGE & MOORER
ATTORNEYS AT LAW
BAY MINETTE, ALA.

May 15th, 1921.

Messrs. Grace & Simpson,
Jefferson County Bank Building,
Birmingham, Alabama.

Gentlemen: Re: McMahan vs Frank.

We beg to acknowledge receipt of your letters and desire to say that same would have had our attention sooner but we have just been able to get Mr. Frank.

Frank states that he is willing to settle for thirty five hundred forty six dollars (\$3546.00) provided you will give him until June 1st to get up the money and he also agrees to give you judgment for this amount should he fail to get the money up by this time.

We would like very much to see you all settle this matter and if settlement cannot be had we would like to get the ruling of Judge Leih on the second croup of demurrers filed so that we may take him to the supreme court on both demurrers at the same time. We will appreciate you writing us as to this upon receipt of this letter so that we may know what to do. If settlement is not had Frank desires to take ~~an~~ appeal and of course this will hold off things for a while.

Hoping that this matter may be brought to an end without further litigation, we are,

Yours very truly,

m.