

LOVICK ALLEN,
Plaintiff,
vs.
MARION B. NELLIS,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2500.00) for work and labor done for the Defendant by the Plaintiff on, to-wit: April 3, 1954, at her request, which sum of money with the interest thereon, is still unpaid.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Two Thousand Five Hundred Dollars (\$2500.00) as damages for the breach of an oral agreement entered into by and between the Plaintiff and the Defendant on, to-wit: September 1, 1953, in and by the terms of which agreement the Defendant agreed to pay to the Plaintiff a commission of five per cent. (5%) of the sales price of property formerly owned by the Defendant at Magnolia Springs, in Baldwin County, Alabama, and more particularly described as follows:

The East 200 feet of the West 1294.85 feet of that part of the Northwest fractional Quarter of Section 33, Township 7 South, Range 3 East, lying North of Magnolia River (formerly called East Prong of Fish River) and South of the North 250 feet of said Northwest fractional Quarter together with the improvements located thereon,

in the event that the Plaintiff, a licensed real estate broker of the State of Alabama, secured a purchaser for said property on terms acceptable to the Defendant. And the Plaintiff further alleges that he did, as such licensed real estate broker and in accordance with the understanding and agreement which he had with the Defendant, secure a purchaser for the above described property and that the Defendant accepted the benefits of the services of the Plaintiff and did, on to-wit: April 3, 1954, sell the above described property to John

M. Mosely and Mary Scott Mosely and that although the Plaintiff has made demands upon the Defendant for the payment to him in accordance with the agreement, aforesaid, of a commission of five per cent. (5%) of the sales price of said property that she has refused and continues to refuse to pay said amount to the Plaintiff, wherefore Plaintiff brings this suit and asks judgment in the above amount.

CHASON & STONE

By:

Melone S. Stone
Attorneys for Plaintiff

The Plaintiff requests a trial of this cause by a jury.

CHASON & STONE

By:

Melone S. Stone
Attorneys for Plaintiff.

Filed May 11, 1955

Executed May 17, 1955

Magnolia Springs July

2604

1

Received 11 day of May 1955
and on 17 day of May 1955
I served a copy of the within Sub
on _____

By service on Marion B. Nellis

TAYLOR WILKINS, Sheriff
By Central Citizens D. S.

LOVICK ALLEN,
Plaintiff,

vs.

MARION B. NELLIS,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

SUMMONS AND COMPLAINT

FILED

MAY 11 1955

ALICE J. DUCK, Register

LAW OFFICES
CHASON & STONE
BAY MINETTE, ALABAMA

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT - LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Marion B. Nellis to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the complaint of Lovick Allen.

Witness my hand this 11th day of May, 1955.

Reice J. Dorch
Clerk.

2604

10. No facts are alleged to show that the plaintiff has rendered any services for the defendant for which she is liable under her alleged contract with him.

11. The allegations of the complaint are conclusions of the pleader.

12. The allegations of the complaint are conclusions of the pleader and no facts are alleged to show that the defendant accepted the benefits of any services rendered by the plaintiff in accordance with his contract with her.

13. No facts are alleged to show that the plaintiff rendered any services under his alleged contract with the defendant which were the efficient cause of the sale of the property described in the complaint by the defendant to John M. Mosely and Mary Scott Mosely.

14. No facts are alleged to show that the plaintiff rendered any services to the defendant for which she is liable to him.

15. No facts are alleged to show any liability by the defendant to the plaintiff.

Filed June 3, 1955
Alice J. Luck, Clerk

J. B. Blashburn
Attorney for defendant.

LOVICK ALLEN,)	
	)	IN THE CIRCUIT COURT OF
VS. Plaintiff,	)	BALDWIN COUNTY, ALABAMA
	)	AT LAW NO. 2604
MARION B. NELLIS,)	
Defendant.)	

DEMURRER

Now comes the defendant by her attorney and for demurrer to the complaint and to each and every count thereof, separately and severally, assigns, separately and severally, the following:

1. It does not state a cause of action.
2. The alleged contract between the plaintiff and the defendant is not set out in the complaint.
3. No facts are alleged to show the alleged contract between the plaintiff and the defendant.
4. No facts are alleged to show the legal effect of the alleged contract between the plaintiff and the defendant along with facts showing the defendant's obligation thereunder.
5. No facts are alleged to show that the plaintiff sold the property described in the complaint for the defendant.
6. No facts are alleged to show that the plaintiff sold the property described in the complaint in accordance with his alleged contract with the defendant.
7. No facts are alleged to show that the plaintiff procured a purchaser for the property described in the complaint who was ready, able and willing to purchase it in accordance with his alleged contract with the defendant.
8. No facts are alleged to show that the plaintiff procured a purchaser for the property described in the complaint who was ready, able and willing to purchase it on terms satisfactory to the defendant.
9. No facts are alleged to show that the plaintiff has complied with all of the terms and provisions of his alleged contract with the defendant.

DEMURRER

2

LOVICK ALLEN,

Plaintiff,

VS.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 2604

FILED

JUN 3 1955

ALICE L. DUCK, Clerk

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

LOVICK ALLEN,	§	
Plaintiff,	§	IN THE CIRCUIT COURT OF
vs.	§	BALDWIN COUNTY, ALABAMA
MARION B. NELLIS,	§	AT LAW.
Defendant.	§	

Comes now the Plaintiff in the above styled cause and amends the Complaint heretofore filed in said cause so that the same shall read as follows:

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Two Thousand and Five Hundred Dollars (\$2,500.00) for work and labor done for the Defendant by the Plaintiff on, to-wit: April 3, 1954, at her request, which sum of money with the interest thereon, is still unpaid.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Two Thousand and Five Hundred Dollars (\$2,500.00) as damages for the breach of an oral agreement entered into on, to-wit: the first day of September, 1953, by and between the Plaintiff and the Defendant in and by the terms of which the Defendant employed the Plaintiff to procure for her a purchaser for the following described real property situated in Baldwin County, Alabama, viz:

The East 200 feet of the West 1294.85 feet of that part of the Northwest fractional quarter of Section 33, Township 7 South, Range 3 East, lying North of Magnolia River (formerly called East Prong of Fish River) and South of the North 250 feet of said Northwest fractional quarter together with the improvements located thereon.

and agreed to pay the Plaintiff for procuring such purchaser the "usual commission" paid to real estate brokers in the locality and immediate area based upon the purchase price for which the Defendant might sell said property to such purchaser; and the Plaintiff avers that he, a licensed real estate broker, in accordance with said

agreement, procured a purchaser for said property and the improvements thereon and that the Defendant sold said property to the purchaser procured by the Defendant for a large sum of money, to-wit: Fifty Thousand Dollars (\$50,000.00). And the Plaintiff further avers that the "usual commission" paid to real estate brokers in the locality and immediate area in which said property is situated for procuring a purchaser for improved real estate is Five per cent. (5%) of the purchase price, and that although the Plaintiff has made demand upon the Defendant for the payment due him of the sum of Two Thousand Five Hundred Dollars (\$2,500.00) that the Defendant has failed and refused and continues to fail and refuse to pay such amount, wherefore Plaintiff brings this suit and asks judgment in the above amount.

Filed Jan. 24, 1956
Alice J. Stuck, Clerk

CHASON & STONE

By: *M. Chason & S. Stone*
 Attorneys for Plaintiff.

the jury
find in favor
of the Plaintiff
in amount of \$2500.00

John P. Götter
Foreman

LOVICK ALLEN,

Plaintiff,

vs.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW.

2604

AMENDED BILL OF COMPLAINT

FILED

JAN 24 1956

ALICE L. DICK, CLERK

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

LOVICK ALLEN,)	
	)	IN THE CIRCUIT COURT OF
VS. Plaintiff,	)	BALDWIN COUNTY, ALABAMA
)	
MARION B. NELLIS,	)	AT LAW NO. 2604
)	
Defendant.)	

DEMURRER TO AMENDED COMPLAINT

Now comes the defendant, by her attorney, and for demurrer to Count Two of the amended complaint filed in this cause on January 24, 1956, assigns, separately and severally, the following:

1. It does not state a cause of action.
2. It does not allege any facts to show that the defendant is liable to the plaintiff for payment of a commission for selling the property described in the complaint.
3. The alleged contract between the plaintiff and the defendant is not set out in the complaint.
4. No facts are alleged to show the legal effect of the alleged contract between the plaintiff and the defendant along with facts showing the defendant's obligation thereunder.
5. No facts are alleged to show the consideration for the alleged oral agreement between the plaintiff and the defendant.
6. No facts are alleged to show that the defendant gave the plaintiff the exclusive right to sell the property described in the complaint.
7. No facts are alleged to show the time during which the alleged oral agreement between the plaintiff and the defendant was in force and effect.
8. No facts are alleged to show that the plaintiff sold the property described in the complaint during the time that the alleged oral agreement between the plaintiff and the defendant remained in force and effect.
9. No facts are alleged to show that the plaintiff sold the property described in the complaint during the time that the alleged oral agreement remained in force and effect at a price or on terms satisfactory to the defendant.

10. The date of the alleged sale by the defendant of the property described in the complaint is not shown.

11. The name of the party or parties to whom the defendant sold the property described in the complaint is not shown.

12. No facts are alleged to show that the plaintiff procured a purchaser for the property described in the complaint during the time that the alleged oral agreement between the plaintiff and the defendant remained in force and effect who was ready, able and willing to purchase the said property in accordance with the terms and provisions of the alleged oral agreement between the plaintiff and the defendant.

13. No facts are alleged to show that the plaintiff procured a purchaser for the property described in the complaint during the time that the alleged oral agreement between the plaintiff and the defendant remained in force and effect who was ready, able and willing to purchase the said property at a price and on terms satisfactory to the defendant.

14. No facts are alleged to show that the defendant sold the property described in the complaint to the plaintiff's customer or prospect during the time that the alleged oral agreement between the plaintiff and the defendant was in force and effect.

15. For aught that appears from the complaint, the time limit fixed in the alleged oral agreement between the plaintiff and the defendant expired before the property described in the complaint was sold by the defendant.

16. No facts are alleged to show that the plaintiff has complied with all of the terms and provisions of his alleged oral agreement with the defendant.

17. No facts are alleged to show that the plaintiff has rendered any services for the defendant for which she is liable under the alleged agreement with him.

18. The allegations of the complaint are conclusions of the pleader.

19. The allegations of the complaint are conclusions of the pleader in that the commissions to be paid by the defendant

to the plaintiff are not alleged except by way of conclusion.

20. The allegations of the complaint are conclusions of the pleader and no facts are alleged to show that the defendant accepted the benefits of any services rendered by the plaintiff in accordance with his alleged oral agreement with her.

21. No facts are alleged to show that the plaintiff rendered any services to the defendant for which she is liable to him.

Filed Jan. 26, 1956
Alice J. Luck,
clerk

J. B. Blackburn
Attorney for defendant.

16
DEMURRER TO AMENDED COMPLAINT

LOVICK ALLEN,

Plaintiff,

VS.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 2604

FILED
JAN 26 1956
ALICE J. DUCK, Clerk

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

LOVICK ALLEN,

Plaintiff,

vs.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

Comes now the Plaintiff in the above styled cause and amends the Complaint heretofore filed in said cause so that the same shall read as follows:

COUNT ONE:

The Plaintiff claims of the Defendant the sum of Two Thousand and Five Hundred Dollars (\$2,500.00) for work and labor done for the Defendant by the Plaintiff ^{from September 1, 1953 to} on, to-wit: April 3, 1954, at her request, which sum of money with the interest thereon is still unpaid.

COUNT TWO:

The Plaintiff claims of the Defendant the sum of Two Thousand and Five Hundred Dollars (\$2,500.00) as damages for the breach of an oral agreement entered into on, to-wit: the first day of September, 1953, by and between the Plaintiff and the Defendant in and by the terms of which the Defendant employed the Plaintiff to procure for her a purchaser for the following described real property situated in Baldwin County, Alabama, viz:

The East 200 feet of the West 1294.85 feet of that part of the Northwest fractional quarter of Section 33, Township 7 South, Range 3 East, lying North of Magnolia River, (formerly called East Prong of Fish River) and South of the North 250 feet of said Northwest fractional quarter together with the improvements located thereon.

and agreed to pay the Plaintiff for procuring such purchaser the "usual commission" paid to real estate brokers in the locality and immediate area based upon the purchase price for which the Defendant might sell said property to such purchaser; and the Plaintiff avers that he, a licensed real estate broker, in accordance with said agreement, procured a purchaser for said property and the improvements thereon within a reasonable time from the date of said agreement and that the Defendant sold said property to John M. Mosely

and Mary Scott Carruth Mosely, the purchasers procured by the Plaintiff, for a large sum of money, to-wit: Fifty Thousand Dollars (\$50,000.00). And the Plaintiff further avers that the "usual commission" paid to real estate brokers in the locality and immediate area in which said property is situated for procuring a purchaser for improved real estate is Five Per cent. (5%) of the purchase price, and that although the Plaintiff has made demand upon the Defendant for the payment due him of the sum of Two Thousand Five Hundred Dollars (\$2,500.00) that the Defendant has failed and refused and continues to fail and refuse to pay such amount, wherefore Plaintiff brings this suit and asks judgment in the above amount.

CHASON & STONE

By:


Attorneys for Plaintiff.

LOVICK ALLEN,

Plaintiff,

vs.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW.

AMENDED COMPLAINT

FILED
MAR 3 1956
ALICE J. DUCK, Clerk

LAW OFFICES

CHASON & STONE

BAY MINETTE, ALABAMA

LOVICK ALLEN,)	
)	
VS. Plaintiff,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
MARION B. NELLIS,)	
	)	AT LAW
Defendant.)	

DEMURRER

Now comes the defendant, by her attorney, and for demurrer to Count Two of the amended complaint filed in this cause on March 3, 1956, assigns, separately and severally, the following:

1. It does not state a cause of action.
2. It does not allege any facts to show that the defendant is liable to the plaintiff for payment of a commission for selling the property described in the complaint.
3. The alleged agreement between the plaintiff and the defendant is not set out in the complaint.
4. No facts are alleged to show the legal effect of the alleged agreement between the plaintiff and the defendant along with facts showing the defendant's obligation thereunder.
5. No facts are alleged to show the consideration for the alleged oral agreement between the plaintiff and the defendant.
6. No facts are alleged to show that the defendant gave the plaintiff the exclusive right to sell the property described in the complaint.
7. No facts are alleged to show all of the terms and provisions of the alleged agreement.
8. No facts are alleged to show the length of time that the alleged agreement remained in force.
9. No facts are alleged to show when the plaintiff's authority to procure a purchaser commenced.
10. No facts are alleged to show when plaintiff's authority to procure a purchaser ended.
11. No facts are alleged to show when plaintiff's authority to procure a purchaser commenced and when it ended.
12. No facts are alleged to show the price at which plaintiff was authorized to sell the property described in the complaint

in the event he procured a purchaser.

13. No facts are alleged to show the time during which the alleged oral agreement between the plaintiff and the defendant was in force and effect.

14. No facts are alleged to show that the plaintiff sold the property described in the complaint during the time that the alleged oral agreement between the plaintiff and the defendant remained in force and effect.

15. No facts are alleged to show that the plaintiff sold the property described in the complaint during the time that the alleged oral agreement remained in force and effect at a price or on terms satisfactory to the defendant.

16. The date of the alleged sale by the defendant of the property described in the complaint is not shown.

17. No facts are alleged to show that the plaintiff procured a purchaser for the property described in the complaint during the time that the alleged oral agreement between the plaintiff and the defendant remained in force and effect who was ready, able and willing to purchase the said property in accordance with the terms and provisions of the alleged oral agreement between the plaintiff and the defendant.

18. No facts are alleged to show that the plaintiff procured a purchaser for the property described in the complaint during the time that the alleged oral agreement between the plaintiff and the defendant remained in force and effect who was ready, able and willing to purchase the said property at a price and on terms satisfactory to the defendant.

19. No facts are alleged to show that the defendant sold the property described in the complaint to the plaintiff's customer or prospect during the time that the alleged oral agreement between the plaintiff and the defendant was in force and effect.

20. For aught that appears from the complaint, the time limit fixed in the alleged oral agreement between the plaintiff and the defendant expired before the property described in the complaint was sold by the defendant.

21. No facts are alleged to show that the plaintiff has complied with all of the terms and provisions of his alleged oral agreement with the defendant.

22. No facts are alleged to show that the plaintiff has rendered any services for the defendant for which she is liable under the alleged agreement with him.

23. The allegations of the complaint are conclusions of the pleader.

24. No facts are alleged to show when the plaintiff procured a purchaser for the property described in the complaint.

25. No facts are alleged to show the price at which the plaintiff procured a purchaser for the land described in the complaint.

26. No facts are alleged to show the terms and conditions upon which the plaintiff procured a purchaser for the property described in the complaint.

27. The allegations of the complaint are conclusions of the pleader in that the commissions to be paid by the defendant to the plaintiff are not alleged except by way of conclusion.

28. The allegations of the complaint are conclusions of the pleader and no facts are alleged to show that the defendant accepted the benefits of any services rendered by the plaintiff in accordance with his alleged oral agreement with her.

29. No facts are alleged to show that the plaintiff rendered any services to the defendant for which she is liable to him.

Filed 3-8-54
Alice J. Luck
clerk

J. B. Blackburn
Attorney for defendant.

DEMURRER

10

LOVICK ALLEN,

Plaintiff,

VS.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

*Filed 3-8-56
Accepted
Clerk*

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

LOVICK ALLEN,)	
Plaintiff,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
MARION B. NELLIS,	)	AT LAW NO. 2604
Defendant.)	

PLEA

Now comes the defendant and for plea to plaintiff's complaint as last amended and to each count thereof, separately and severally, says:

1. The allegations of the complaint are untrue.

Filed 9-12-56
Alice J. Slack,
clerk

J. B. Blackburn
 Attorney for defendant.

LOVICK ALLEN,)	
)	
Plaintiff,)	
)	
VS.	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
MARION B. NELLIS,)	
	)	AT LAW NO. 2604
Defendant.)	

SUPERSEDEAS BOND

STATE OF ALABAMA)
 *
 BALDWIN COUNTY)

KNOW ALL MEN BY THESE PRESENTS: That we, Marion B. Nellis, as Principal, and the Hartford Accident and Indemnity Company, a corporation, as Surety, are held and firmly bound unto Lovick Allen in the sum of Fifty-two Hundred Dollars (\$5200.00), for the payment of which well and truly to be made and done the Principal binds herself, her heirs, and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 9th day of November, 1956.

The condition of the above obligation is such that, Whereas, Lovick Allen obtained a judgment in the above styled cause in the Circuit Court of Baldwin County, Alabama, Law Side, on the 10th day of September, 1956, from which judgment the said defendant, Marion B. Nellis, has obtained an appeal returnable to the next term of the Supreme Court of Alabama.

NOW, THEREFORE, if the said defendant, Marion B. Nellis, shall prosecute the said appeal to effect and satisfy such decree as may be rendered against her in the said cause by the Supreme Court of Alabama, then this obligation is to be void; otherwise, to remain in full force and effect.

We and each of us do hereby waive all rights to our claim of exemptions as to personal property which we or either of us have now or may hereafter have under the Constitution and laws of Alabama, and we hereby severally certify that we have property free of and from all encumbrances to the full amount of this bond.

HARTFORD ACCIDENT AND INDEMNITY COMPANY,
a corporation,
(SEAL)

By Charles J. Ebert
As its Attorney in Fact.

Affix corporate seal.

Taken and approved on this the
0th day of November,
1956.

David J. Smith

Clerk of the Circuit Court of
Baldwin County, Alabama.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 696

MARION B. NELLIS

, Appellant

vs.

LOVICK ALLEN

, Appellee,

From BALDWIN
NO. 2604

Circuit Court.

The State of Alabama,
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to seven inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, this the 9th day of

October, 19 58

J. Render Thomas
Clerk of the Supreme Court of Alabama

THE SUPREME COURT OF ALABAMA

October Term, 1958-59

1st Div., No. 696

MARION B. NELLIS

Appellant,

vs.

LOVICK ALLEN

Appellee.

From BALDWIN CIRCUIT Court,
No. 2604

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY 1957

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 58-59

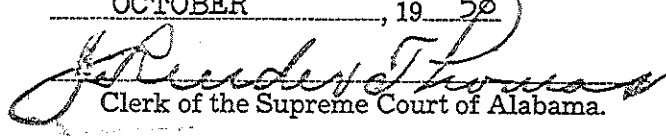
To the CLERK of the CIRCUIT Court of
BALDWIN County, Greeting:

Whereas, the Record and Proceedings of the CIRCUIT Court
of said county, in a certain cause lately pending in said Court between
MARION B. NELLIS, Appellant,
and
LOVICK ALLEN, Appellee,

wherein by said Court it was considered adversely to said appellant, were brought before our
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

Now, it is hereby certified, That it was thereupon considered, ordered, and adjudged by our Su-
preme Court on the 9th day of OCTOBER, 19 58, that said JUDGMENT
of said CIRCUIT Court be reversed and annulled, and the cause remanded to said court
for further proceedings therein; and that it was further considered, ordered, and adjudged that the
appellee - ~~pay~~ Lovick Allen, pay * * * * *

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

Witness, J. Render Thomas, Clerk of the Supreme
Court of Alabama, at the Judicial Department
Building, this the 9th day of
OCTOBER, 19 58

Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 19 58-59

1st Div., No. 696

MARION B. NELLS

Appellant,

vs.

LOVICK ALLEN

Appellee.

From BALDWIN CIRCUIT
Court, NO. 2604

CERTIFICATE OF
REVERSAL

The State of Alabama,
Baldwin County, } Filed

this 11 day of Oct 19 58

Henry H. Warrick

THE STATE OF ALABAMA.

LOVICK ALLEN

vs.

MARION B. NELLIS

Circuit Court BALDWIN

County.

To LOVICK ALLEN

or CHASON & STONE

, Attorneys of record:

Whereas, MARION B. NELLIS has taken an appeal from the judgment of said Court, rendered at the Fall Term, 19 56, thereof, in the above stated cause, returnable to the next Term, 19 56, of the Supreme Court of Alabama:

Now, you are therefore cited to appear at the Next Term, 19 56, of said Supreme Court, to defend on said appeal, if you shall see proper so to do.

Witness this 9th. day of November, 19 56

Archie J. Burke, Clerk.

LOVICK ALLEN

VS

MARION B. NELLIS

*
*
*
*
*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IT LAW NO. 2604

9/10/56: Came the parties by their attorneys, came also a jury of good and lawful men, to wit; John P. Gottler, and eleven others, who being impannelled and duly sworn according to law, on their oaths say, "We, the jury, find the issue in favor of the Plaintiff and assess the damages at the sum of \$2500.00." And the same being considered by the Court:

It is ordered and adjudged by the Court that the Plaintiff have and recover of the defendant the said sum of \$2500.00, the damages assessed as aforesaid, together with the costs in this behalf expended, for which execution may issue.

Div. No. _____

CERTIFICATE OF APPEAL. (Civil Cases.)

No. 2604

THE STATE OF ALABAMA

BALDWIN County.

I, ALICE J. DUCK, Clerk of the Circuit Court of BALDWIN County, in and for said State and County, hereby certify that the foregoing pages numbered from one to _____, both inclusive, contain a full, true and complete transcript of the record and proceedings of said Court in a certain cause lately therein pending wherein _____

LOVICK ALLEN

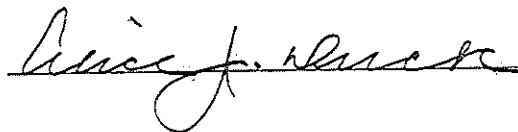
was plaintiff, and _____

MARION B. NELLIS

was Defendant, as fully and completely as the same appears of record in said Court.

And I further certify that the said MARION B. NELLIS did on the 9th. day of November, 1956, pray for and obtain an appeal from the judgment of said Court to the SUPREME COURT of Alabama to reverse said judgment of said Court upon entering into bond with J.B. BLACKBURN as surety thereon, which said bond has been approved by me.

Witness my hand and the seal of said Circuit Court of BALDWIN County is hereto affixed, this the 9th. day of November, 1956


Clerk of the Circuit Court of
BALDWIN County, Alabama.

(Code 1940, Title 7, Sec. 767)

LOVICK ALLEN,)
Plaintiff,) IN THE CIRCUIT COURT OF
VS.) BALDWIN COUNTY, ALABAMA
MARION B. NELLIS,) AT LAW NO. 2604
Defendant.)

INTERROGATORIES PROPOUNDED BY DEFENDANT TO
PLAINTIFF.

Now comes the defendant and propounds the following
interrogatories to the plaintiff:

1. Did you have a contract with the defendant whereby
you were to act as her agent or broker to sell the property de-
scribed in the complaint?
2. Was your contract with the defendant oral or written
3. If your answer to the above interrogatory is that
the contract was an oral one, when and where was the contract made,
what were its terms and provisions, and who was present when it was
made?
4. If you had a contract with the defendant, what ser-
vices did you render the defendant under the said contract with her
and when were the said services rendered?
5. Did the defendant at any time authorize you to act
as her agent or broker in selling the property described in the
complaint and, if so, when were you authorized by the defendant to
sell the property?
6. If you had a contract with the defendant to act as
her agent or broker, when was the contract made and when did it
terminate?
7. At what price were you authorized by the defendant
to sell the property described in the complaint?
8. What did you do in connection with the sale by the
defendant to John M. Mosely and Mary Scott Mosely of the property
described in the complaint?

9. Did you, at any time, notify the defendant that you had procured a purchaser who was ready, able and willing to purchase the property described in the complaint? If so, when did you notify her?

10. Did you, at any time, notify the defendant that you, as her agent and broker, had procured John M. Mosely and Mary Scott Mosely as purchasers who were ready, able and willing to purchase the property described in the complaint? If so, when?

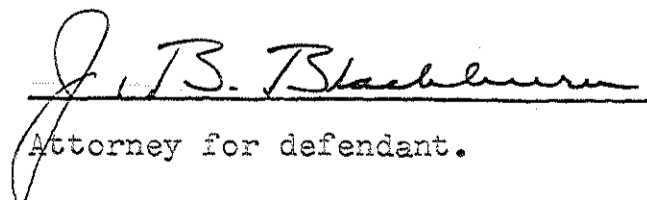
11. Did you, at any time before the defendant sold the property described in the complaint to John M. Mosely and Mary Scott Mosely, tell her that they were your prospects and that you were expecting her to pay you a commission of five percent (5%)? If so, when, where and how did you tell the defendant or communicate these facts to her?

12. Were you present when the defendant sold the property described in the complaint to John M. Mosely and Mary Scott Mosely?

13. How many conferences did you have with John M. Mosely and Mary Scott Mosely relative to selling the property described in the complaint, and when and where did these conferences take place?

14. How many conferences did you have with the defendant relative to selling the property described in the complaint? When and where were these conferences held and who were present?

15. What services did you render the defendant in selling the property described in the complaint, for which you have not been paid?


Attorney for defendant.

STATE OF ALABAMA)
*
BALDWIN COUNTY)

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says:

That he is attorney for the defendant in the above entitled cause; that the answers to the above interrogatories will, if properly made, be material testimony for the defendant in this cause.

J. B. Blackburn

Sworn to and subscribed before me on
this the 5th day of January, 1956.

Mary Lou Blackburn

Notary Public, Baldwin County, Alabama

3 1
INTERROGATORIES PROPOUNDED BY THE
DEFENDANT TO THE PLAINTIFF,

LOVICK ALLEN,

Plaintiff,

VS.

MARION B. NELLIS,

Defendant.

Received 5 day of Jan 1956
and on 6 day of Jan 1956
I served a copy of the within Interrogatories
on Marion B. Nellis

By service on _____

TAYLOR WILKINS, Sheriff

By Ellen H. Henderson D. S.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 2604

FILED

JAN 5 1956

ALICE J. DUCK, Clerk

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

Plt's Ex 45

LOVICK ALLEN,)	
	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
	)	AT LAW
MARION B. NELLIS,)	
Defendant.)	

DEFENDANT'S ANSWERS TO INTERROGATORIES PROPOUNDED
BY PLAINTIFF.

Now comes the defendant and for answers to the interrogatories heretofore propounded to her by the plaintiff, says:

1. Answer to first interrogatory:
Mrs. Marion B. Nellis, Magnolia Springs, Alabama.
2. Answer to second interrogatory:
Yes.
3. Answer to third interrogatory:
Yes.
4. Answer to fourth interrogatory:
No.
5. Answer to fifth interrogatory:
Yes.
6. Answer to sixth interrogatory:
\$50,000.00.
7. Answer to seventh interrogatory:
Yes.
8. Answer to eighth interrogatory:
Yes.
9. Answer to ninth interrogatory:

I left Baldwin County on or about July 18, 1953, to make a trip to New York and other places in the East. I returned to Baldwin County on or about August 31, 1953. Dr. and Mrs. Mosely contacted me about purchasing the property shortly after I returned around September 8th or 10th, 1953, and wanted to buy it.

10. Answer to tenth interrogatory:
Partly answered above. Later I received one letter

from them dated September 25, 1953, a copy of which is hereto attached marked "Exhibit A". I received another letter from them dated October 12, 1953, a copy of which is hereto attached marked "Exhibit B".

11. Answer to eleventh interrogatory:

Yes, on one occasion when he was at my home with Mr. and Mrs. Wilson, and one occasion in a telephone conversation.

12. Answer to twelfth interrogatory:

Yes.

13. Answer to thirteenth interrogatory:

Yes.

14. Answer to fourteenth interrogatory:

Yes.

15. Answer to fifteenth interrogatory:

Mr. Allen asked me if the Moselys had bought the place and I told him that the negotiations had not been finished. I only had one telephone conversation with Mr. Allen, unless he called me before he brought the Wilsons there.

16. Answer to sixteenth interrogatory:

No. He had already been there with the Wilsons.

17. Answer to seventeenth interrogatory:

No.

18. Answer to eighteenth interrogatory:

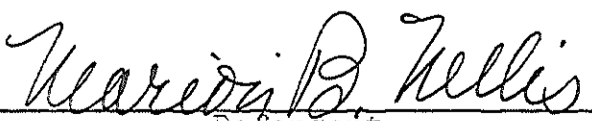
Yes. I do not remember how the matter was arranged, but I was present at the time Mr. Allen brought the Wilsons to my property at Magnolia Springs.

19. Answer to nineteenth interrogatory:

No.

20. Answer to twentieth interrogatory:

No furniture, fixtures or household appliances were included in the original sale to the Moselys. After they bought the house I sold them some furniture for approximately \$500.00.


Defendant

STATE OF ALABAMA)
*
BALDWIN COUNTY)

Before me, the undersigned authority, within and for said County in said State, personally appeared Marion B. Nellis, who, after being by me first duly and legally sworn, deposes and says: That she has read over the foregoing answers to the interrogatories heretofore propounded to her by the plaintiff, and that the same are true.

Marion B. Nellis

Sworn to and subscribed before me
on this the 14th day of March, 1956.

J. B. Blackburn
Notary Public, State 7
at Large.

EXHIBIT A

"Mix, Louisiana

"Dear Mrs. Nellis:

"Dr. Mosely and I appreciate your notes and the additional information about "Riverview".

"We are planning to fly up to Gainesville, Ga. in a few weeks to see our son who is in school there.

"Will it be convenient to you for us to stop off at Mobile and drive over to Magnolia Springs to see the place. May I telephone or wire you just when to expect us?

"It will be on a Friday afternoon, but our plans are so often upset by emergency surgery and (or) confinement cases that we dare not state definitely that we are coming until just before we leave.

"Thanks again for writing to us. We hope to see you soon.

"Sincerely,

(S) "Scott Mosely."

"September 25, 1953"

EXHIBIT B

"Mix, Louisiana

"Dear Mrs. Nellis:

"We all enjoyed being with you yesterday.

"The place is lovely. We like it very much. We focus our lives around our home, and we are accustomed to country living and all its ramifications.

"We appreciate the hospitality that you extended to us.

"Sincerely,

"Scott Mosely."

"October 12, 1953"

DEFENDANT'S ANSWERS TO INTERROG-
ATORIES PROPOUNDED BY PLAINTIFF.

LOVICK ALLEN,

Plaintiff,

VS.

MARION B. NELLIS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 2604

FILED
JUN 19 1956
WILLIAM J. DUCK, CLERK

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA