

320

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 W.A. Derby and H.T. Watkins,

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 a Bill of Complaint lately exhibited by

C.G. Godard and V. Mc.R Showalter,

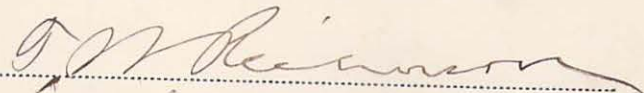
against said

W.A. Derby and H.T. Watkins,

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 15th, day of October,

21,



Register.

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

*Copy*

Serve on.....

CIRCUIT COURT OF BALDWIN COUNTY,  
IN EQUITY.

No.....

SUMMONS.

~~C. G. Godard~~ ~~and~~ ~~W. H. B. B.~~

~~Watkins~~ and V. Mc.R Showalter,

by leaving a copy of the within Summons with

Defendant

Sheriff

*H. A. Darby* vs.

~~and~~ H. T. Watkins

By

Deputy Sheriff.

Rickarby and Bebec.

Solicitor for Complainant.

Recorded in Vol..... Page.....

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

Received in office this.....

day of ..... 191.....

Sheriff.

Executed this..... day of

191.....

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,  
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G. C. Shepard and V. McR. Shewalter,

against said

W. A. Darby and H. R. Watkins,

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WITNESS, T. W. Richerson, Register of said Circuit Court, this 15th. day of October.

21.  
191.....

T. W. Richerson  
Register.

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

*Copy*

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CIRCUIT COURT OF BALDWIN COUNTY,  
IN EQUITY.

No.....

SUMMONS.

*C. G. Godard*

*and V. Mc. A. Showalter*

*W. A. Darby*

vs.

*and R. T. Watkins*

*Hickarby and Bebee.*

Solicitor for Complainant.

Recorded in Vol.....Page.....

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

Received in office this.....

day of ..... 191.....

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Executed this..... day of

191.....

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Defendant

Sheriff

By .....

Deputy Sheriff.

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,  
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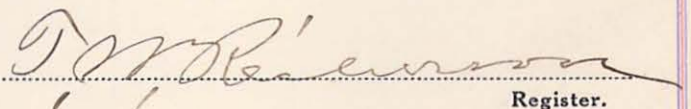
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W.A. Darby and H.T. Watkins,

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WITNESS, T. W. Richerson, Register of said Circuit Court, this 15th, day of October,

1921.

  
Register.

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*Original*

Serve on.....

CIRCUIT COURT OF BALDWIN COUNTY,  
IN EQUITY.

No.....

SUMMONS.

C. G. Godard ~~and H. T. Watkins~~

~~and H. T. Watkins~~ and V. Mc. R. Showalter

*W. A. Darby*

vs.

~~and H. T. Watkins~~

Rickarby and Bebee.

Solicitor for Complainant.

Recorded in Vol..... Page.....

*Serve Copy on W. A. Darby  
& H. T. Watkins  
Fairhope, Ala*

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

Received in office this.....

day of ..... 191.....

Sheriff.

Executed this..... day of

191.....

by leaving a copy of the within Summons with

Defendant

Sheriff

By .....

Deputy Sheriff.

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT  
OF BALDWIN COUNTY, ALABAMA; SITTING IN EQUITY:

Your Orators, C. G. GODARD and V. McR. SHOWALTER, by this  
their bill of complaint, exhibited against W. A. DARBY and H. T.  
WATKINS respectfully show:

FIRST: That all parties to this cause are over the age of  
twenty-one years and residents of the Town of Fairhope, Baldwin Coun-  
ty, Alabama.

SECOND: That on or about the twenty-eighth day of February,  
1921, the parties hereto entered into a co-partnership under the  
name of GODARD-DARBY DRUG CO. for the purpose of establishing and  
operating a general business for the sale of drugs, and other mer-  
chandise usual to a drug store, and soft drinks, in the Town of Fair-  
hope, which partnership agreement was reduced to writing, executed  
by all parties hereto and a copy of which is attached hereto as a  
part of this bill and identified as "Exhibit A".

THIRD: That said partnership agreement provided for the pay-  
ment by each partner of a stipulated sum expressed therein, which each  
was to pay as the capital of the concern. Your Orators have complied  
therewith by paying the sums subscribed by them in full into the treas-  
ury of the Company and until recently believed that the Defendants had  
done likewise but have lately ascertained that Defendants have not  
done so; Complainants being practicing physicians busily engaged in  
the duties of their profession and the bookkeeping and management of  
the firm **having** been confided to the Defendants.

FOURTH: That the said drug business was duly opened at the  
Town of Fairhope in a location where a good business might be expect-  
ed, about the 15th day of April, since which time it has been managed  
by Defendants, but though Defendant Darby was supposed to be keeping  
accurate books and accounts, Complainants have been unable to get  
adaquate specific information as to the conduct and condition of the  
business or the amounts contributed by Defendants thereto, until re-  
cently when Complainant Godard took upon himself to examine the books  
of the Company, which he found very badly and inadaquately kept but  
which showed that the Defendants **had** not complied with the partnership

obligations as to contributing the amounts subscribed by them.

FIFTH: That Defendant H. T. Watkins, as an inducement to Complainants to enter into the aforesaid partnership represented that he was a **licensed** pharmacist, qualified to practice as such in the County of Baldwin, but has failed and refused, though requested to do so, to produce his license or any certificate of qualification to practice pharmacy in this or any other State and recently when requested to do so gave an evasive answer so that Complainants did not believe that he is a qualified and made inquiry from the proper department and learned he is not licensed, licensed pharmacist. That said Watkins has made numerous and serious mistakes in filling prescriptions prepared by Complainants, some of which, had Complainants not discovered the mistakes before administering medicine might have been fatal to their patients. Said W.A. Darby is not a pharmacist.

SIXTH: That Defendant H. T. Watkins, who under the articles of the agreement is the manager of said business, is a confirmed drunkard and is in a drunken condition the greater part of the time he is actually in the store; that he has neglected the business by reason of this habit and has not devoted his time thereto though he is general manager and as such was and is paid a salary for his services out of the partnership funds. That frequently he abandons the business for weeks at a time, leaving town without telling any of his business associates where he is going or when he will return, Complainants did not know of H.T. Watkins intemperate habits until after entering into the partnership.

SEVENTH: That the said H. T. Watkins, contrary to the agreement of the co-partnership, has drawn checks or drafts against the partnership bank account for his personal use and the Defendant W. A. Darby, who alone is authorized under the partnership agreement to draw checks or drafts from the partnership funds, has permitted or connived in this action of the said H.T. Watkins.

EIGHTH: That it is the business of the said H.T. Watkins and W.A. Darby, who are actively in charge of said business to keep in stock such drugs and accessories as the line of trade in Fairhope requires. This they have failed, neglected and refused to do so that the stock carried by them is incomplete and inadequate for the line of trade such business can and should do; that Complainants have remonstrated with them without avail in this matter insisting that they keep the stock up and carry such drugs and accessories as the business requires; that by reason of the aforesaid acts



of negligence and mismanagement; and improper conduct on the part of Defendants, the business has not only not earned a reasonable profit on the investment but has been from the beginning and still is losing money, the original capital is being dissipated and the business is becoming heavily involved with accounts.

NINTH: That H.T. Watkins, manager of said business, has threatened that if Complainants seek dissolution of the firm, he will wreck the business so that they will not get anything on distribution of the assets. That as Defendants are insolvent or at least have no visible assets, Complainants fear from the way and manner said business has been carried on, that not only the assets of the business will be lost but that a large indebtedness will be incurred for which Complainants, as partners, would be held liable; that Complainants further fear that if after this petition is filed the business is left under the management of the said H. T. Watkins the assets will be dissipated and that there will not be sufficient assets on the final distribution to settle the indebtedness of the Company so that Complainants will not only lose what funds they have put into said business but incur an additional personal liability.

TENTH: That Complainants have been unable to ascertain the stock on hand but from their knowledge of the value of such stock, they believe it will not exceed \$2500.00 and the other assets of the Company consisting chiefly of fixtures, will not exceed \$2500.00 in value, and under forced sale, very much less than that amount, That Complainants were informed about two weeks ago by Defendants that the indebtedness of the Company exceeded \$2500.00 which showing evidences Complainant's contention that the business is being mismanaged and is rapidly approaching insolvency.

ELEVENTH: IN RECAPITULATION Complainants specifically charge that Defendants have not complied with the partnership agreement in that they have not contributed either in money or real value the sums for which they were respectively obligated; that Complainants entered into said partnership relying upon defendant Watkin's representation that he was an experienced and licensed pharmacist; that the business has not been conducted in a proper and business-like manner by the partners intrusted with that duty; that Defendant Watkins by his intemperance and other personal habits has become unfit to have the supervision and management of so responsible a business and that by reason of the foregoing, Complainants are in danger

not only of losing what they have contributed to the Company, but of becoming involved as partners for a firm liability of serious amount and that Defendants, under the laws of partnership, can only with the greatest difficulty, if at all, be made personally liable for neglect and mismanagement or worse, and even if so, are either insolvent or have no visible assets out of which Complainants could obtain redress, except their interest in the firm, here shown to be of doubtful and rapidly diminishing value.

THE PREMISES CONSIDERED, Orators pray that this Court take jurisdiction of the cause made by this bill, that W. A. Darby and H. T. Watkins be made parties defendant thereto and by appropriate process by required to answer same when the time required by law and obey all such orders and decrees as may be made in the premises.

ORATORS FURTHER PRAY, That for the protection of the interest of all parties concerned an order be made forthwith upon Complainants giving bond in such sum as to the Court seems proper, appointing some fit and proper person as receiver to take charge of, manage and operate the business of the Godard-Darby Drug Co., under such orders as the Court may from time to time made in the premises, said receiver to give bond in such sum as this Court may require, conditioned upon the faithful performance of his duties as such.

ORATORS FURTHER PRAY, That upon the hearing of this cause an order be made dissolving the partnership, providing for an accounting by which the liability of the several partners to each other and to creditors of the firm, may be determined and winding up the business to the best interest of all concerned and that with these ends in view, such orders and decrees be made from time to time as to Your Honor seem proper and best adapted to attain the ends of justice and to grant Orators such other, further or different relief as to equity may seem meet.

And Orators, as in duty bound will ever pray, etc.

X C. S. Godard  
X Wm. M. Prohatty  
X Rickard & Pugh  
Solicitors for Complainants.

NOTE: Defendants are required to answer each paragraph of the foregoing bill but not under oath.

X C. S. Godard  
X Wm. M. Prohatty  
X Rickard & Pugh  
Solicitors for Complainants.

STATE OF ALABAMA)  
BALDWIN COUNTY )

Before me, the undersigned Notary, personally appeared this day C. G. Godard and V. McR. Showalter, Complainants in the above entitled cause, who being sworn, say that the allegations of the foregoing bill are true.

x C. G. Godard  
x V. McR. Showalter

Given under my hand this the 13<sup>th</sup> day of October, 1921.



George W. Wood  
Notary Public, Baldwin County, Alabama.

EXHIBIT A

PARTNERSHIP AGREEMENT

THIS AGREEMENT made and entered into this 28th day of February, 1921, by and between C. G. Godard, V. McR. Showalter, W. A. Darby and H. T. Watkins, WITNESSETH:

FIRST: The purpose of this partnership is to do a general drug and soft drink business in the Town of Fairhope, Baldwin County, Alabama, under the name of Godard-Darby Drug Company.

SECOND: The amount of capital with which the said partnership will begin business is \$6000.00, paid in full, contributed by the hereinabove named parties in the following respective amounts and for which said amounts the said parties shall own respective interest in the said business, viz:

C. G. Godard, \$666.67, being a one-ninth interest.

V. McR. Showalter, \$666.67, being a one-ninth interest.

W. A. Darby, \$2666.66, being a four-ninth interest.

H. T. Watkins, \$2000.00, being a three-ninth interest.

THIRD: V. McR. Showalter shall be President and C. G. Godard, Vice President, W. A. Darby Secretary and Treasurer, and H. T. Watkins General Manager, until further changed by the action of the partnership.

The duties of the Secretary and Treasurer shall be to operate the general finances of the business, receiving all monies of the business, and paying out all monies of the business, and doing and being in charge of the general bookkeeping of the business.

The duties of the General Manager shall be to do all of the buying and selling necessary to the carrying on of the said business.

It is further agreed by the parties to this contract that all salaries of any of the partners hereto or employees thereof shall be fixed by the partnership under the voting power hereinafter provided.

It is further agreed that there shall be a financial statement made of the business at the end of each fiscal year,

at which time any profits may be divided among the partners to this agreement in the proportion of their interest and in percent, as voted by the partnership.

It is further agreed that should it become necessary to increase the assets of the Company and more money be needed that V. McR. Showalter and C. G. Godard will be allowed to contribute additional sum, increasing their interest in the said business.

Any definite policies of the Company or digressions from the general business shall be decided by the partnership hereto, and it is further agreed that each partner hereto shall be liable for any indebtedness of the said business in the proportion of his holdings.

For the purpose of carrying on this business in the manner and method of a Corporation, though not incorporated, the partners hereto have designated offices and shall have a voting power in proportion to their interest and the majority of vote of interest shall control as in the case of Corporations.

IN WITNESS WHEREOF, the hereinabove named parties have hereunto set their hands the day and the date above written.

Subscribed before me this)	V. McR. SHOWALTER.
17th day of March, 1921. )	
George W. Wood, )	C. G. GODARD.
(S) Notary Public. )	
	W. A. DARBY.
	H. T. WATKINS.