

SHERILL OIL COMPANY, INC.,
a corporation,

Plaintiff,

-vs-

MIKE KAISER & SONS, a partner-
ship, composed of Mike Kaiser,

Sr., John Kaiser and Mike Kaiser,
Jr., John Kaiser, Individually,
and Mike Kaiser, Jr., Individually,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE

3764

DEMURRER TO PLEA IN ABATEMENT

Comes the Plaintiff in the above styled cause and demurrs to the plea in abatement heretofore filed therein and as ground of demurrer sets out, separately and severally, the following separate and several grounds:-

1. That said plea does not give the Plaintiff a better writ.
2. That plea does not set out on whom action should be had.
3. That the said plea sets out no matters and facts, which at law, would be sufficient as grounds for a plea in abatement.
4. That for aught that appears plaintiff had received payment on said note on which this action is based since the date of the alleged dissolution.
5. That for aught that appears payment was made on the note which is the subject of this suit by the Executor of the estate of Mike Kaiser, Sr., thereby acknowledging and accepting the indebtedness.
6. That for aught that appears a payment on the note on which this action is based may have been made after the alleged dissolution which would constitute an affirmation and acceptance thereof.
7. That for aught that appears Plaintiff is not required to file a claim against the estate of a deceased partner in order to preserve a claim against the partnership.
8. That for aught that appears Plaintiff is not required to file a claim against the estate of a deceased partner to preserve his claim against a deceased partner.
9. That said plea does not show that notice of dissolution of the partnership was given to Plaintiff.

10. That for aught that appears in said plea, partnership liability for payment of the note which is the subject of this suit continues.

11. That the plea is a mere frivolous recital.

Filed
May 13, 1959
Alice J. Luck,
clerk


Attorney for Plaintiff

3764

DEMURRER TO PLEA IN ABATEMENT

SHERRILL OIL COMPANY, INC., a
corporation,

Plaintiff,

-vs-

MIKE KAISER & SONS, a partnership,
composed of Mike Kaiser, Sr.,
John Kaiser and Mike Kaiser, Jr.,
John Kaiser; Individually, and
Mike Kaiser, Jr., I ndividually,

Defendants.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

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FILED

MAY 13 1959

ALICE J. DUCK, CLERK
REGISTER
CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

SHERILL OIL COMPANY, INC.,
a corporation,

Plaintiff,

-VS-

MIKE KAISER & SONS, a partner-
ship, composed of Mike Kaiser,
Sr., John Kaiser and Mike
Kaiser, Jr., John Kaiser, In-
dividually and Mike Kaiser,
Jr., INDIVIDUALLY,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE

Comes the Plaintiff in the above styled cause and amends
the Bill of Complaint heretofore filed therein, by striking there-
from the name of Mike Kaiser, Sr.,

FILED

SEP 14 1959

ALICE J. DUCK, CLERK
REGISTER

67


Attorney for Plaintiff

SHERRILL OIL COMPANY, INC.,
a corporation,

Plaintiff,

-vs-

MIKE KAISER & SONS, a partner-
ship, composed of Mike Kaiser,
Sr., John Kaiser and Mike
Kaiser, Jr., John Kaiser, In-
dividually and Mike Kaiser,
Jr., Individually,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE

Comes the Plaintiff in the above styled cause and agrees to
the withdrawal of the above styled cause from the Jury call.

FILED

SEP 14 1959

AJICE J. DUCK, CLERK
REGISTER



Attorney for Plaintiff

SHERRILL OIL COMPANY, INC.,
a corporation,

Plaintiff,

-vs-

MIKE KAISER & SONS, a partner-
ship, composed of Mike Kaiser,
Sr., John Kaiser and Mike
Kaiser, Jr., John Kaiser, IN-
dividually, and Mike Kaiser,
Jr., Individually,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE

Comes the Defendant in the above styled cause and hereby specifically and in writing withdraws the demand for trial by Jury, and confesses Judgment to this date, for and in behalf of Mike Kaiser, Jr., and John Kaiser, in the amount of Three Thousand Nine Hundred and Sixteen and 34/100 Dollars (\$3,916.34).

FILED

SEP 14 1959

ALICE J. DUCK, CLERK
REGISTER

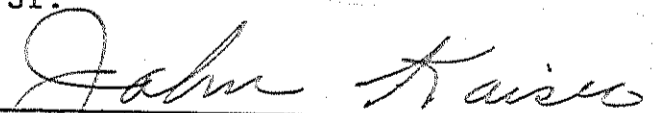
Harrell Johnston & Rayford
Attorney for Defendants Mike Kaiser,
Jr., and John Kaiser


SHERRILL OIL COMPANY, INC.,)	IN THE CIRCUIT COURT OF
a corporation,)	BALDWIN COUNTY, ALABAMA
Plaintiff,)	
-vs-)	LAW SIDE
MIKE KAISER & SONS, a partner-)	
ship, composed of Mike Kaiser,)	
Sr., John Kaiser and Mike)	
Kaiser, Jr., John Kaiser, In-)	
dividually, and Mike Kaiser,)	
Jr., Individually,)	
Defendants)	

PLEA IN ABATEMENT

Now comes John Kaiser and Mike Kaiser, Jr., as former partners in the former partnership known as Mike Kaiser & Sons, composed of Mike Kaiser, Sr., John Kaiser, Mike Kaiser, Jr., and represent and show unto this Court that prior to the institution of this suit against the said partnership, the same had been dissolved on to-wit, January 1, 1957, and that on July 31, 1958, Mike Kaiser, Sr. died testate in Baldwin County, Alabama, and Letters Testamentary were issued by the Probate Judge of Baldwin County, Alabama to Magdalena Kaiser, as Executrix of the estate of Mike Kaiser, Sr., deceased, and your Petitioners aver that the Plaintiff herein did not file a claim against the estate of the said Mike Kaiser, Sr. within the time allowed by law;

WHEREFORE, the aforesaid suit should be abated as to Mike Kaiser and Sons, a partnership composed of Mike Kaiser, Sr., John Kaiser and Mike Kaiser, Jr.



 JOHN KAISER


 MIKE KAISER, JR.

STATE OF ALABAMA)

COUNTY OF BALDWIN)

Before me, the undersigned authority in and for the said state and county aforesaid, personally appeared John Kaiser and

Mike Kaiser, Jr., who are known to me and who being by me first duly sworn, deposes and say that the facts in the foregoing Plea in Abatement are true and correct.

John Kaiser
JOHN KAISER

Mike Kaiser Jr.
MIKE KAISER, JR.

Subscribed and sworn to
before me, this 14th day
of March, 1959.

William E. Schuman
NOTARY PUBLIC, STATE OF ALABAMA
MY COMMISSION EXPIRES 1/26/63

Harwell, Johnston and Ransford,
Attorneys
Fourth Floor, Waterman Bldg,
Mobile, Ala.

Filed
Mar. 18, 1959
Alice J. Duck,
Clerk

SHERRILL OIL COMPANY, INC.,
a corporation

Plaintiff

-vs-

MIKE KAISER & SONS, a partner-
ship, composed of Mike Kaiser,
Sr., John Kaiser and Mike
Kaiser, Jr., John Kaiser, In-
dividually and Mike Kaiser,
Jr., Individually,

Defendants

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA
)
) LAW SIDE

ANSWER

Now come John Kaiser and Mike Kaiser, Jr., individually,
and for answer to the above complaint heretofore filed against
them as individuals state as follows:

1. Not guilty.
2. The allegations of complaint are untrue.

John Kaiser & Mike Kaiser Jr.
By: Howell Johnston Langford, Attys.
JOHN KAISER AND MIKE KAISER, JR.

The said defendants request a trial by jury of this cause.

Howell, Johnston & Langford,
Attorneys.

Filed
Mar. 18, 1959
Alice J. Duck,
Clerk.

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 Mike Kaiser & Sons, a partnership, composed of Mike Kaiser, Sr., John Kaiser and Mike Kaiser, Jr., John Kaiser, Individually, and Mike Kaiser, Jr., Individually, to appear within thirty (30) 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 Sherrill Oil Company, Inc., a corporation.

WITNESS my hand this the 10 day of February, 1959.

Alfred L. Duck
Clerk

- COMPLAINT -

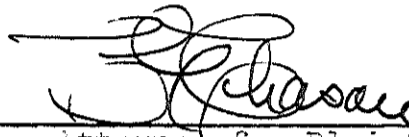
SHERRILL OIL COMPANY, INC., a corporation,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
)	
-vs-)	BALDWIN COUNTY, ALABAMA
)	
MIKE KAISER & SONS, a partner- ship, composed of Mike Kaiser, Sr., John Kaiser and Mike Kaiser, Jr., John Kaiser, In- dividually, and Mike Kaiser, Jr., Individually,)	LAW SIDE
)	
Defendants,)	

COUNT I

The Plaintiff claims of the Defendants Three Thousand Thirty-four and 23/100 Dollars (\$3,034.23) due by Promissory Waive Note made by them on, to-wit, October 5, 1954, payable sixty (60) days after date, plus interest at the rate of six per cent (6%) per annum, from August 5, 1957.

The Plaintiff avers that in and by the terms of said note the Defendants waived all rights of exemption under the Constitu- tion and Laws of Alabama, or any other State, and of this waiver the Plaintiff now claims the benefit.

The Plaintiff further avers that in and by the terms of said note the Defendants agreed to pay all costs of collecting or securing, or attempting to collect or secure this note, including a reasonable attorney's fee, and the Plaintiff further claims of the Defendants the further and additional sum of Five Hundred Dollars (\$500.00) as such reasonable attorney's fee.



Attorney for Plaintiff

ived 10 day of Feb 1957
on 24 day of Feb 1957
red a copy of the within 8 cc
Mike L. Davis
Mike L. Davis Jr
vice on _____

TAYLOR WILKINS, Sheriff
By *Charles Taylor* B. S.

Given 27 day of Feb 1959
 on 31 day of Feb 1959
 I have given a copy of the within 200
John Jones
Mike Jones
 Service on John Jones

TAYLOR WILKINS Sheriff
By Carl L. Tucker D. S.

Sheriff claims 252 miles at 20
Ten Cents per mile Total \$ 25
TAYLOR WILKINS, Sheriff
BY [Signature]
DEPUTY SHERIFF

SHERRILL OIL COMPANY, INC.,
a corporation,

Plaintiff,

-VS-

MIKE KAISER & SONS, a partnership, composed of Mike Kaiser, Sr., John Kaiser and Mike Kaiser, Jr., and John Kaiser, Individually, and Mike Kaiser, Jr., Individually,

Defendants.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE

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FILED

FEB 10 1959

ALICE L. DUCK, CLERK
REGISTERED
CECIL G. CHASON
ATTORNEY AT LAW
FOLEY, ALABAMA

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

February 9, 1959

Mrs. Alice J. Duck, Clerk
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith is Summons and Complaint in the
action of Sherrill Oil Company, Inc., a corporation,
-vs- Mike Kaiser & Sons, a partnership, et al.

I am sending one copy of this letter to the Sheriff
to request service on one of the partners, as a partner-
ship, and service on both John Kaiser and Mike Kaiser,
Jr., individually.

Yours very truly,



C. G. Chason

CGC:fm

encls. 4

cc: Mr. Taylor Wilkins, Sheriff
Bay Minette, Alabama

CECIL G. CHASON

ATTORNEY AT LAW
FOLEY, ALABAMA

May 12, 1959

Mrs. Alice J. Duck, Clerk
Bay Minette, Alabama

Dear Mrs. DUCK:

Enclosed herewith is Demurrer to Plea In Abatement in
the case of Sherrill Oil Company, Inc. -vs- Mike Kaiser
& Sons.

Yours very truly,


C. G. Chason

CGC:fm

encls. as noted.