

MARVIN H. KILLINGSWORTH and
ALLISON S. ALFORD

plaintiffs

vs

BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
PINEDA CLUB, et al.

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

NO. 4366

WITHDRAWAL OF APPEARANCE

Come(s) C. LeNoir Thompson, attorney,
who have (has) either formally appeared in the above styled
cause by filing a written appearance or pleading in said
cause, or else informally appeared in said cause, in behalf
of the Pineda Club, Inc.,
and withdraw(s) their (his) appearance as counsel as afore-
said in said cause.

APPEARANCE

Come HAMILTON, DENNISTON, BUTLER & RIDDICK, by Miller A. Widemire, and file this their initial appear-
ance in the above styled cause as counsel for Pineda Club,
Inc. ... and move that said Defendant (Re-
spondent) be granted a continuance with respect to the above case
set for a hearing on _____,
in said cause, in order to give them a reasonable opportunity
to familiarize themselves with said cause and to prepare what-
ever pleadings and proof may be necessary and proper in their
representation as aforesaid.

HAMILTON, DENNISTON, BUTLER & RIDDICK

By: Miller A. Widemire

FILED

APR 13 1961

ALI : J. DUCK, Clerk

MARVIN H. KILLINGSWORTH and :
ALLISON S. ALFORD, individually :
and jointly, separately and :
severally, :

Plaintiffs, :

VS: :

THE PINEDA CLUB, INC., :
a corporation, :

Defendant :

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4366

Upon the annexed petition of Robert L. Byrd, Jr., as
Trustee of The Pineda Club, Inc., a bankrupt, praying for the
stay of the captioned lawsuit, and it appearing that such suit
or proceedings were pending at the time of the filing of the
petition and that the suit or proceedings are founded upon claims
from which a discharge in bankruptcy would be a release and that
no notice of this application should be given and no adverse in-
terest being represented, it is hereby

ORDERED that the captioned lawsuit be stayed and that
the proceedings be restrained and enjoined until final decree
in the bankruptcy proceedings or further order of this court.

FILED

JUN 3 19

ALICE J. DUCK, CLERK
REGISTER

Robert M. Steele
Judge

MARVIN H. KILLINGSWORTH	:	
and ALLISON S. ALFORD,	:	
individually and jointly,	:	IN THE CIRCUIT COURT OF
separately and severally,	:	
	:	BALDWIN COUNTY, ALABAMA
Plaintiffs,	:	
	:	AT LAW
VS:	:	
	:	
THE PINEDA CLUB, INC.,	:	
a corporation,	:	NO. _____
	:	
Defendant	:	

Comes now your Petitioner, Robert L. Byrd, Jr., who is the duly elected and qualified Trustee of The Pineda Club, Inc., a bankrupt estate, and respectfully represents and shows unto this honorable court as follows:

I

On the 24th day of April, 1961, The Pineda Club, Inc., a corporation, filed a voluntary petition in the District Court of the United States for the Southern District of Alabama, Southern Division, seeking to declare The Pineda Club, Inc. a bankrupt; and on the same date it was duly adjudged a bankrupt and the proceedings were referred to the Honorable Sidney J. Gray, Referee in Bankruptcy.

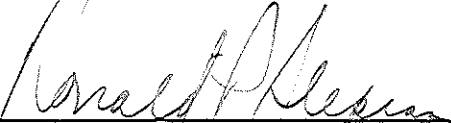
II

On the 8th day of May, 1961, your Petitioner was appointed as Trustee of The Pineda Club, Inc., a corporation, and your Petitioner has now been duly qualified and has entered upon the performance of his official duties as Trustee of the said named bankrupt estate.

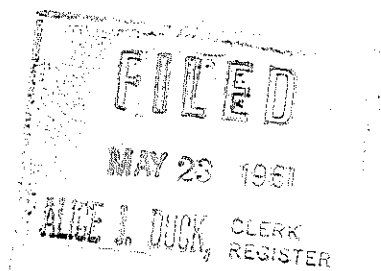
III

It has come to the attention of your Petitioner that at the time of filing the bankruptcy petition and the appointment of your Petitioner as Trustee and at the present time, the captioned lawsuit was and still is pending before this honorable court; that said suit is founded upon a claim which a discharge in bankruptcy would be a release.

WHEREFORE, your Petitioner moves and prays that the captioned lawsuit be stayed and that the Plaintiff therein be enjoined and restrained until final decree in the bankruptcy proceedings from doing any act or commencing any other proceedings in stated cause until a final decree or order therein, and that he have such other and further relief as is just in the premises.



Ronald P. Slepian, Attorney for
Robert L. Byrd, Jr., as Trustee
in Bankruptcy of The Pineda Club,
Inc., a bankrupt estate



MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD

Plaintiffs

vs

BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
ET AL

Defendants

X
X
X
X
X
X
X
X

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW NO. 4366

Come Stanley Winn, The Pineda Club and George C. Wilkinson
by Thompson & White, attorneys of record and Vincent Kilborn and
Thompson & White, attorneys of record for George C. Wilkinson and
refile their demurrers heretofore filed to the complaint as last
amended.

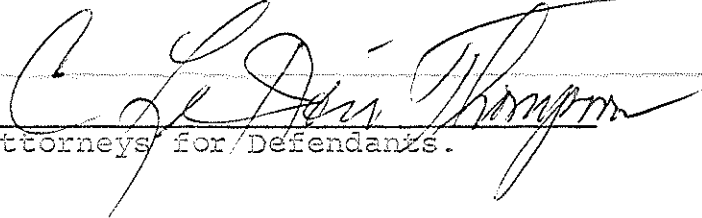
VINCENT R. KILBORN
THOMPSON & WHITE

FILED

MAR 16 1961

ALICE J. DUCK, CLERK
REGISTER

BY:


Attorneys for Defendants.

MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD,

Plaintiffs,

VS

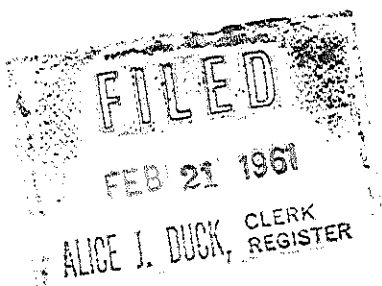
BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION, DOLPHIN CORPORATION, A CORP-
ORATION, THE PINEDA CLUB, INC., A
CORPORATION, JOHN DOE, RICHARD ROE,
ABC COMPANY, A PARTNERSHIP, and XYZ
CORPORATION, A CORPORATION, WHOSE
NAMES ARE OTHERWISE UNKNOWN BUT WILL
BE ADDED BY AMENDMENT WHEN ASCERTAINED,

Defendants.

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

Come the Plaintiffs in the above styled cause and show to
the Court that they have ascertained the name of the corporation
that is designated as the "XYZ CORPORATION", as its name was un-
known to them, and ask that said complaint be amended to substi-
tute the name "DAUPHINE CORPORATION, A CORPORATION" in place of
the "XYZ CORPORATION", and add Counts 1-A through 9-A to their
complaint as per amendment filed herewith.

PARKER AND SALMON, AND
E. G. RICKARBY, Attorneys for
the Plaintiffs,



BY: [Signature]
E. G. Rickarby.

MARVIN E. KILLINGSWORTH AND
ALLISON S. ALFORD,

Plaintiffs,

VS

BERNARD C. BERMAN, STANLEY WINN,
GEORGE C. WILKERSON, KEY CLUB OF
PINEDA ISLAND, INC., A CORPORATION,
THE CLUB OF MOBILE ON PINEDA ISLAND,
INC., A CORPORATION, DOLPHIN CORPORA-
TION, A CORPORATION, THE PINEDA CLUB,
INC., A CORPORATION, DAUPHINE CORPORA-
TION, A CORPORATION, AND JOHN DOE,
RICHARD ROE, ABC COMPANY, WHOSE NAMES
ARE OTHERWISE UNKNOWN BUT WILL BE
ADDED BY AMENDMENT WHEN ASCERTAINED,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW.

COUNT I

The plaintiffs claim of the defendants, jointly and severally, ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$175,000.00) damages for the breach of an agreement entered into by them on, to-wit, the 6th day of August, 1959, in substance as follows:

The plaintiffs were engaged and employed and agreed to perform professional services as architects, including preliminary design studies, working drawings and specifications and supervision of construction pertaining to the erection and construction of commercial and club facilities for the defendants on the east shore of Pineda Island adjacent to U. S. Highway 90, on the north side of said highway, the cost of said construction having been estimated at somewhere between \$2,500,000.00 and \$3,000,000.00, for which the plaintiffs were to receive 5.7% for the bowling alley and related facilities, designated between the parties as Phase I, and to receive 6% of the estimated cost for the balance of the construction, consisting of Phase II and Phase III. The plaintiffs were also engaged to make extensive study and preliminary work in the over-all study of the site and original program of the defendants for which the plaintiffs were to receive the amount of \$4,200.00, to, at a later date, be applied as a credit against that much of the fee under the portion of the contract known as Phase III. And the plaintiffs say that, although they complied with the initial portion of the contract and made extensive studies and did extensive work pertaining to the study of the site and the original program, and made drawings which were furnished to the defendants pursuant to the agreement, and after devoting several months' time to the development, study and promotion of the project, and being ready, willing and able to perform all of their obligations thereunder, the defendants breached the contract and failed to comply with their provisions and requirements of the contract, viz.; they failed and refused to pay the plaintiffs the amounts of money agreed upon and employed other architects and refused to go forward with the agreement and plaintiffs were damaged in that they have not been paid for the services rendered, their drawings were used to enlist financial backing for the construction and development of the project, and to interest prospective members, the plaintiffs spent many hours work on the study and drawings and moved their offices to larger offices and added additional equipment and added an additional technical employee for the expansion of their office force, and lost many thousands of dollars in architectural fees by not being able to take on other work as a result of their commitment for this particular job.

COUNT II

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) damages for that on, to-wit, the 6th day of August, 1959, for the purpose of inducing plaintiffs to spend many hours study and work in studying the site and program for the development and construction of a bowling alley and related facilities, swim club including pool, cabanas, restaurant, marina and related faci-

ilities, including docking facilities, club rooms and possible motel facilities, concessions, boat storage, etc., and furnishing architectural drawings to the defendants pertaining to same, represented to the plaintiffs that the plaintiffs and defendants would enter into and did enter into an agreement that the plaintiffs would be the architects pertaining to such construction and development, said construction and development to be located on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and that the plaintiffs would be paid 5.7% of the initial phase of construction and 6% on the balance of such construction, based on the estimated cost which at the time was estimated to be between \$2,500,000.00 and \$3,000,000.00, and that the plaintiffs would be paid for their initial work, and defendants further represented that no other architects had been engaged or contracted with to perform such services.

The plaintiffs were thereby induced to prepare studies and drawings and to deliver the architectural drawings of these facilities of a value of, to-wit, \$45,000.00, and expended many hours work and many dollars for larger offices and increased their staff and lost many thousands of dollars by not being able to take on other work due to this commitment.

The said representations of the defendants were false and then known or ought to be known to them as false, and that the defendants have not paid for said drawings and work performed by the plaintiffs.

COUNT III

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) letter damages for that heretofore, between, to-wit, the period of August 6, 1959 and September 8, 1959 the defendants told the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: Bowling alley and related facilities, swimming pool, including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and upon the plaintiffs' submission of drawings or sketches to defendants, defendants agreed with the plaintiffs that they would enter into a written agreement whereby the plaintiffs would be engaged as the architects for services, including the designs, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00, and further the defendants represented to the plaintiffs that the plaintiffs were the only architects being considered and that no other architects had been engaged or contracted with to perform these services or was being considered; and the plaintiffs relied on said statements and entered into work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for the construction and erection and used by defendants to interest prospective members, and, acting in reliance upon these representations the plaintiffs did the following, to-wit: Moved their offices to a new location providing larger offices and added equipment to the layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance on the statements of the defendants; and plaintiffs aver that the representations of the defendants were false in this, that the plaintiffs were not the only architects being considered and that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, on the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe are not residents of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and inducing them to submit sketches on plans to this and that said representations did deceive the plaintiffs to their damages as above and aforesaid.

COUNT IV

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) for that heretofore on, to-wit, the 6th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: Bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection and used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: Moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT V

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) damages for that heretofore on, to-wit, the 18th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: Bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection and used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: Moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an

additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VI

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) damages for that heretofore on, to-wit, the 19th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: Bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection and used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: Moved their offices to a new location providing larger offices and added equipment to give layour, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VII

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) damages for that heretofore on, to-wit, the 28th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: Bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including

the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection and used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: Moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VIII

The plaintiffs claim of the defendants, jointly and severally, TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) damages for that heretofore on, to-wit, the 8th day of September, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: Bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Pineda Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection and used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: Moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IX

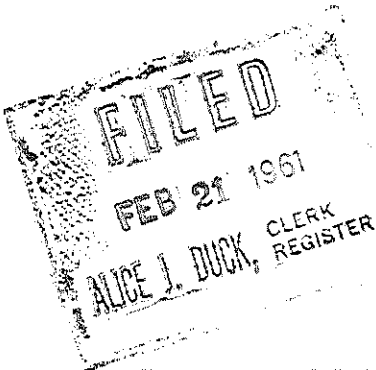
The plaintiffs claim of the defendants, jointly and severally, ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$175,000.00) for work and labor done for the defendants by the plaintiffs during the period from, to-wit, August 6, 1959 through October, 1959, at defendants' request, which sum of with interest thereon is still unpaid.

PARKER AND SALMON, and E. G.
RICKARBY, Attorneys for the
Plaintiffs,

BY: 

E. G. Rickarby.

Plaintiffs demand a trial by jury.



E. G. Rickarby, of Attorneys
for the Plaintiffs.

MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD

Plaintiffs

vs

BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
THE PINEDA CLUB, INC., et
al.

Defendants

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4366

Comes The Pineda Club, Inc., a corporation by C. LeNoir
Thompson, its attorney of record and adopts the demurrers here-
tofore filed by C. LeNoir Thompson as attorney for Stanley Winn
and moves this Honorable Court for consideration of said demur-
rers in accordance with its ruling thereon heretofore determined.

THOMPSON & WHITE
Attorneys for The Pineda Club, Inc.

BY:



FILED

NOV 30 1960

ALICE J. DUCK, Clerk

-7-

That said complaint fails to allege as to Count III any action by the said George C. Wilkerson.

-8-

That said complaint fails to allege as to Count IV any action by the said George C. Wilkerson.

-9-

That said complaint fails to allege as to Count V any action by the said George C. Wilkerson.

-10-

That said complaint fails to allege as to Count VI any action by the said George C. Wilkerson.

-11-

That said complaint fails to allege as to Count VII any action by the said George C. Wilkerson.

-12-

That said complaint fails to allege as to Count VIII any action by the said George C. Wilkerson.

-13-

~~That said complaint fails to allege as to Count IX any action~~
by the said George C. Wilkerson.

-14-

That the said complaint fails to allege in Count II in what capacity said George C. Wilkerson is alleged to have acted and the specific date or time on which the said George C. Wilkerson is alleged to have acted.

-15-

That the complaint alleges the defendants, but fails to identify the act or acts of the several defendants and the capacity in which the said defendants are alleged to have acted.

-16-

The allegations of Count III allege deceit but fail to allege which defendants allegedly deceived the plaintiffs and the capacity of said defendants in which said act of deceit was allegedly consummated and the date, time and place that said alleged act of deceit occurred.

-17-

That said complaint fails to allege whether the alleged contract was oral or written.

-18-

That Count III of said Complaint fails to allege who were parties to the alleged contract, the breach of which plaintiffs complain.

-19-

Count III of said complaint fails to allege the capacity in which the alleged individuals allegedly contracting entered into said alleged contract.

-20-

Count III of said complaint fails to allege the several acts of the several individuals allegedly named as defendants in said complaint.

-21-

That Count I fails to allege any specific agreement, conversation, or contract with the said defendant, George C. Wilkerson.

-22-

That the allegations of the said complaint fail to allege the time and place at which the said defendant, George C. Wilkerson, entered into any agreement with the said plaintiffs.

-23-

That the allegations of said complaint fail to allege whether said agreement was oral or in writing.

-24-

That the allegations of said complaint fail to identify the capacity in which the said George C. Wilkerson is alleged to have entered into the agreement complained of.

-25-

For aught alleged in said complaint said plaintiffs alleged to sue on a contract and then said plaintiffs allege that defendants fail to consummate the said contract.

-26-

That said complaint is contradictory in that said defendants did not consummate or continue the said contract.

-27-

That said Counts IV, V, VI, VII, and VIII of said complaint allege that said defendants fail to continue or consummate a contract thereby contradicting said allegations of said complaint.

That Count IX of said complaint fails to allege how the said defendants jointly and severally authorized the work complained of.

That Count IX of said complaint fails to allege the capacity of the said defendants jointly and severally in allegedly employing the work and labor complained of.

VINCENT F. KILBORN
THOMPSON & WHITE

BY: Mary Thompson White
Attorneys for defendant, George C.
Wilkerson

Filed 9-17-60
Alicia J. Luck
clerk

MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD

Plaintiffs,

vs

BERNARD C. BERMAN; STANLEY
WINN, GEORGE C. WILKERSON,
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION, DOLPHIN CORPORATION, A CORPORA-
TION, THE PINEDA CLUB, INC., A CORP-
ORATION, JOHN DOE, RICHARD ROE,
ABC COMPANY, A PARTNERSHIP, AND XYZ
CORPORATION, A CORPORATION, WHOSE
NAMES ARE OTHERWISE UNKNOWN BUT WILL
BE ADDED BY AMENDMENT WHEN ASCER-
TAINED,

Defendants.

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

No. 4366

Comes Stanley R. Winn by Thompson & White, his attorneys of
record and for demurrer to the complaint filed in said cause and to
each count thereof and to each phase of each count thereof separate-
ly and severally demurs as follows:

-1-

That the said complaint fails to state a cause of action
against the said defendant, Stanley R. Winn.

-2-

That the said plaintiffs fail to allege what the said Stanley
R. Winn did in connection with the breach of agreement as alleged in
Count I of said complaint.

-3-

That the said complaint and each count thereof fails to allege
whether Stanley R. Winn was acting individually or as the agent, ser-
vant, or employee of another individual or corporation.

-4-

That the said complaint fails to allege the name of any corp-
oration or individual for which the said Stanley R. Winn acted as the
agent, servant or employee.

-5-

That said complaint fails to allege as to Count I any action
by the said Stanley R. Winn.

-6-

That said complaint fails to allege as to Count II any action
by the said Stanley R. Winn.

-7-

That said complaint fails to allege as to Count III any action by the said Stanley R. Winn.

-8-

That said complaint fails to allege as to Count IV any action by the said Stanley R. Winn.

-9-

That said complaint fails to allege as to Count V any action by the said Stanley R. Winn.

-10-

That said complaint fails to allege as to Count VI any action by the said Stanley R. Winn.

-11-

That said complaint fails to allege as to Count VII any action by the said Stanley R. Winn.

-12-

That said complaint fails to allege as to Count VIII any action by the said Stanley R. Winn.

-13-

That said complaint fails to allege as to Count IX any action by the said Stanley R. Winn.

-14-

That the said complaint fails to allege in Count II in what capacity said Stanley R. Winn is alleged to have acted and the specific date or time on which the said Stanley R. Winn is alleged to have acted.

-15-

That the complaint alleges the defendants, but fails to identify the act or acts of the several defendants and the capacity in which the said defendants are alleged to have acted.

-16-

The allegations of Count III allege deceit but fail to allege which defendants allegedly deceived the plaintiffs and the capacity of said defendants in which said act of deceit was allegedly consummated and the date, time and place that said alleged act of deceit occurred.

-17-

That said complaint fails to allege whether the alleged contract was oral or written.

-18-

That Count III of said complaint fails to allege who were parties to the alleged contract, the breach of which plaintiffs complain.

-19-

Count III of said complaint fails to allege the capacity in which the alleged individuals allegedly contracting entered into said alleged contract.

-20-

Count III of said complaint fails to allege the several acts of the several individuals allegedly named as defendants in said complaint.

-21-

That Count I fails to allege any specific agreement, conversation, or contract with the said defendant, Stanley R. Winn.

-22-

That the allegations of the said complaint fail to allege the time and place at which the said defendant, Stanley Winn, entered into any agreement with the said plaintiffs.

-23-

That the allegations of said complaint fail to allege whether said agreement was oral or in writing.

-24-

That the allegations of said complaint fail to identify the capacity in which the said Stanley Winn is alleged to have entered into the agreement complained of.

-25-

For aught alleged in said complaint said plaintiffs alleged to sue on a contract and then said plaintiffs allege that defendants fail to consummate the said contract.

-26-

That said complaint is contradictory in that said defendants did not consummate or continue the said contract.

-27-

That said Counts IV, V, VI, VII, and VIII of said complaint allege that said defendants fail to continue or consummate a contract

thereby contradicting said allegations of said complaint.

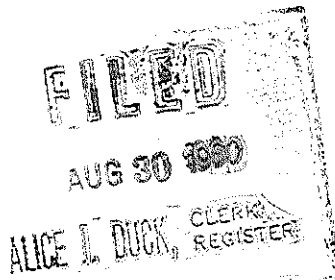
-28-

That Count IX of said complaint fails to allege how the said defendants jointly and severally authorized the work complained of.

-29-

That Count IX of said complaint fails to allege the capacity of the said defendants jointly and severally in allegedly employing the work and labor complained of.

THOMPSON & WHITE



BY: Mary Thompson White
Attorneys for Defendant, Stanley R.
Winn

4366

FILED

AUG 30 1961

ALICE L. DICK, CLERK
REGISTER

MARVIN H. KILLINGSWOETH and
ALLISON S. ALFORD,

Plaintiffs,

-VS-

BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION, DOLPHIN CORPORATION, A CORPORA-
TION, THE PINEDA CLUB, INC., A CORP-
ORATION, JOHN DOE, RICHARD DOE, ABC
COMPANY, A PARTNERSHIP, AND XYZ COR-
PORATION, A CORPORATION, WHOSE NAMES
ARE OTHERWISE UNKNOWN BUT WILL BE
ADDED BY AMENDMENT WHEN ASCERTAINED,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

CASE NO. 4366

NOTICE TO TAKE DEPOSITION

To The Defendants Above. Namely: BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON, KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE ON PINEDA ISLAND, INC., A
CORPORATION, DOLPHIN CORPORATION, A CORPORATION, THE PINEDA
CLUB, INC., A CORPORATION, AND TO THOMPSON AND WHITE, ATTORNEYS
FOR THE DEFENDANTS:

Please take notice that the Plaintiffs herein will
take, in the above entitled action to be used as authorized by
Article 6A, Title 7 of the 1958 Code of Alabama, the depositions
of MR. STANLEY WINN and MR. GEORGE C. WILKERSON, witnesses, be-
fore an officer authorized to administer oaths under the Laws
of the State of Alabama, who is not of counsel nor attorney for
any of the parties to, nor relative nor employee of such counsel,
or attorney, nor interested in this case, on Wednesday, November
2nd, 1960, at 9:30 o'clock, A. M., in the Law Library of the
Baldwin County Court House in Bay Minette, Alabama, at which
time and place you are hereby notified to appear and take such
part in such examination as you may be advised, and as shall
be fit and proper.

Done this the 20 day of October, 1960.

PARKER AND SALMON, and
E. G. RICKABBY,

By E. G. Rickaby
E. G. RICKABBY of Counsel
of Plaintiffs.

FILED

OCT 21 1960

ALICE J. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. _____

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon _____

Pineda Club, Inc.

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in

the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against BERNARD C. BERMAN:
STANLEY WINN, GEORGE C. WILKERSON, KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE ON PINEDA ISLAND, INC. a corp.
DOLPHIN CORP., A Corp., THE PINEDA CLUB, INC., a Corp. et al Defendant s__

by MARVIN H. KILLINGSWORTH and ALLISON S. ALFORD

_____, Plaintiff s__

Witness my hand this 19 day of September 1960

Beier f. H. H. H., Clerk

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

MARVIN H. KILLINGSWORTH and

ALLISON S. ALFORD,

Plaintiffs

vs.

BERNARD C. BERMAN,.....

THE PINEDA CLUB, INC., A Corp.
et al.

Defendants

Summons and Complaint

Filed _____ 19____

Clerk

E. G. Rickarby

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Montgomery, Ala.

Received In Office

_____, 19____

Sheriff.

I have executed this summons

this _____ 19____

by leaving a copy with

Sheriff.

Deputy Sheriff.

MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD,

Plaintiffs,

VS.

BERNARD C. BERMAN; STANLEY
WINN; GEORGE C. WILKERSON;
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION; THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION; DOLPHIN CORPORATION, A CORP-
ORATION; THE PINEDA CLUB, INC., A
CORPORATION; JOHN DOE, RICHARD ROE,
ABC COMPANY, A PARTNERSHIP, AND XYZ
CORPORATION, A CORPORATION, WHOSE
NAMES ARE OTHERWISE UNKNOWN BUT WILL
BE ADDED BY AGREEMENT WHEN ASCER-
TAINED,

Defendants.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

AT LAW

COUNT I

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) damages for the breach of an agreement entered into by them on, to-wit, the 6th day of August, 1959, in substance as follows:

The plaintiffs were engaged and employed and agreed to perform professional services as architects, including preliminary design studies, working drawings and specifications and supervision of construction pertaining to the erection and construction of commercial and club facilities for the defendants on the east shore of Pineda Island adjacent to U. S. Highway 90, on the north side of said highway, the cost of said construction having been estimated at somewhere between \$2,500,000.00 and \$3,000,000.00, for which the plaintiffs were to receive 5.7% for the bowling alley and related facilities, designated between the parties as Phase I, and to receive 6% of the estimated cost for the balance of the construction, consisting of Phase II and Phase III. The plaintiffs were also engaged to make extensive study and preliminary work in the over-all study of the site and original program of the defendants for which the plaintiffs were to receive the amount of \$4,200.00, to, at a later date, be applied as a credit against that much of the fee under the portion of the contract known as Phase III. And the plaintiffs say that, although they complied with the initial portion of the contract and made extensive studies and did extensive work pertaining to the study of the site and the original program, and made drawings which were furnished to the defendants pursuant to the agreement, and after devoting several months' time to the development, study and promotion of the project, and being ready, willing and able to perform all of their obligations thereunder, the defendants breached the contract and failed to comply with their provisions and requirements of the contract, viz.; they failed and refused to pay the plaintiffs the amounts of money agreed upon and employed other architects and refused to go forward with the agreement and plaintiffs were damaged in that they have not been paid for the services rendered, their drawings were used to enlist financial backing for the construction

and development of the project, and to interest prospective members, the plaintiffs spent many hours work on the study and drawings and moved their offices to larger offices and added additional equipment and added an additional technical employee for the expansion of their office force, and lost many thousands of dollars in architectural fees by not being able to take on other work as a result of their commitment for this particular job.

COUNT II

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that on, to-wit, the 6th day of August, 1959, for the purpose of inducing plaintiffs to spend many hours study and work in studying the site and program for the development and construction of a bowling alley and related facilities, swim club including pool, cabanas, restaurant, marina and related facilities, including docking facilities, club rooms and possible motel facilities, concessions, boat storage, etc., and furnishing architectural drawings to the defendants pertaining to same, represented to the plaintiffs that the plaintiffs and defendants would enter into and did enter into an agreement that the plaintiffs would be the architects pertaining to such construction and development, said construction and development to be located on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and that the plaintiffs would be paid 5.7% of the initial phase of construction and 6% on the balance of such construction, based on the estimated cost which at the time was estimated to be between \$2,500,000.00 and \$3,000,000.00, and that the plaintiffs would be paid for their initial work, and defendants further represented that no other architects had been engaged or contracted with to perform such services.

The plaintiffs were thereby induced to prepare studies and drawings and to deliver the architectural drawings of these facilities of a value of, to-wit, \$45,000.00, and expended many hours work and many dollars for larger offices and increased their staff and lost many thousands of dollars by not being able to take on other work due to this commitment.

The said representations of the defendants were false and then known or ought to be known to them as false, and that the defendants have not paid for said drawings and work performed by the plaintiffs.

COUNT III

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the period from August 6, 1959 through September 8, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection

and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00, and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants; and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IV

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the 6th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Fenida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these

representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT V

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 18th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the represent-

ations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VI

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 19th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 28th day of August, 1959, the defendants represented to the plaintiff that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VIII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 8th day of September, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and

4366.

SEP 20 1964

25. S. ELIASS, Stockholm

Jesse M. Williams
Atty. at
Rushton Stake,
Johnson

M. S. BUTLER
Sheriff Montgomery County

By Reemo Deputy Sheriff

The Sheriff claims 2 miles at 10c per mile for a total of \$ 20.

H. S. Butler, Sheriff
Montgomery County, Ala.

FILED
AUG 2 1960

ALICE J. DUCK, Clerk

[illegible][illegible]

[Handwritten signature]

100-443886-100

E. G. RICKARBY

392 FAIRHOPE AVENUE
FAIRHOPE, ALABAMA

August 3, 1960

Office of the Clerk of
the Circuit Court
Bay Minette, Alabama

Dear Mrs. Blackman:

Re: Killingsworth and Alford
Vs: George C. Wilkerson, et al.
Our File: 5189

In this case I would like to get service on Mr. George C. Wilkerson, whose office is located on Pineda Island, there on the causeway, and who also has his home there.

Do you need any extra copies of this complaint? I will furnish you with the addresses of the other defendants as soon as I am able to get them, and I will send up copies of this complaint for each defendant we want served.

Yours very truly,



EGR/ts

cc: Mr. Parker

P. S. I would, also, like to get service on Mr. Stanley Winn, who, I have discovered, is operating the U. S. Land Office there on Pineda Island.

*Please give Sayla my letter
enclosed.*

E. G. RICKARBY

392 FAIRHOPE AVENUE

FAIRHOPE, ALABAMA

October 20, 1960

Mrs. Alice Duck
Clerk of the Circuit Court
Bay Minette, Alabama

Dear Mrs. Duck:

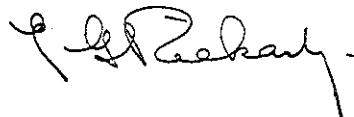
Re: Killingsworth/Alford
Vs: Berman, Winn, Wilkerson, et al
Case No. 4366
Our File: 5189

With this we are handing you notices of taking testimony under the discovery law. Request you have notice given to Messrs. Thompson and White, as attorneys for Stanley Winn and George C. Wilkerson, and ask the sheriff to notify all the other parties he can.

Have you gotten a return from the sheriff of Montgomery County for service on the Pineda Corporation? We have not been able to locate Mr. Bernard C. Berman here in Alabama, so we can only order him served.

Please, also, write up subpoenas for Mr. Stanley Winn and Mr. George C. Wilkerson to appear as witnesses before the commissioner at the place and time mentioned and send them down to the sheriff with my letter.

Yours very truly,

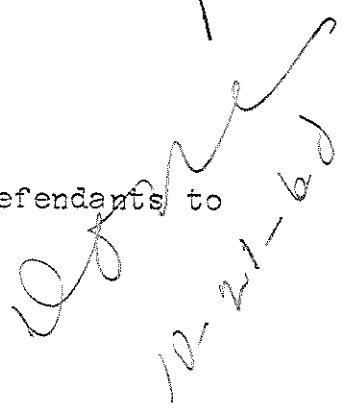


EGR/ts

Encl.

cc: Messrs. Parker & Salmon

P. S. Have marked with pencil the defendants to receive notices.



TELEPHONE WA 8-9836

LAW OFFICES

P. O. BOX 71

E. G. RICKARBY

392 FAIRHOPE AVENUE

FAIRHOPE, ALABAMA

November 10, 1960

Mrs. Alice Duck
Clerk of Circuit
Bay Minette, Alabama

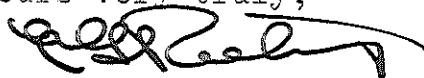
Dear Mrs. Duck:

RE: Killingsworth, et al
vs Berman, et al
Case #4366

Enclosed find notice of taking deposition.

Request you have copy served on Mr. Thompson and subpoena issued to Mr. Goldberg who is to be in Bay Minette on the 17th of November, and get it in the hands of the Sheriff for service.

Yours very truly,



EGR/wr

Enc:

cc: Mr. Thomas F. Parker

cc: Messrs. Thompson & White

cc: Mrs. Louise Dusenbury

11/17/60

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 4366

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon BERNARD C. BERMAN, STANLEY WINN, and ET AL

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

BERNARD C. BERMAN, STANLEY WINN, and ET AL

, Defendant

by MARVIN H. BILLINGSWORTH & ALLISON S. ALFORD

, Plaintiff

Witness my hand this 2nd day of August 1960

Alice F. Luck

, Clerk

No. _____ Page _____

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

Plaintiffs

vs.

Defendants

Summons and Complaint

Filed _____ 19____

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

, 19____

Sheriff.

I have executed this summons

this _____ 19____

by leaving a copy with

Sheriff.

Deputy Sheriff.

MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD,

Plaintiffs,

VS.

BERNARD C. BERMAN; STANLEY
WIKY; GEORGE C. WILKERSON;
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION; THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION; DOLPHIN CORPORATION, A CORP-
ORATION; THE PINEDA CLUB, INC., A
CORPORATION; JOHN DOE, RICHARD ROE,
ABC COMPANY, A PARTNERSHIP, AND XYZ
CORPORATION, A CORPORATION, WHOSE
NAMES ARE OTHERWISE UNKNOWN BUT WILL
BE ADDED BY AMENDMENT WHEN ASCER-
TAINED,

Defendants.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

AT LAW

COUNT I

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) damages for the breach of an agreement entered into by them on, to-wit, the 6th day of August, 1959, in substance as follows:

The plaintiffs were engaged and employed and agreed to perform professional services as architects, including preliminary design studies, working drawings and specifications and supervision of construction pertaining to the erection and construction of commercial and club facilities for the defendants on the east shore of Pineda Island adjacent to U. S. Highway 90, on the north side of said highway, the cost of said construction having been estimated at somewhere between \$2,500,000.00 and \$3,000,000.00, for which the plaintiffs were to receive 5.7% for the bowling alley and related facilities, designated between the parties as Phase I, and to receive 6% of the estimated cost for the balance of the construction, consisting of Phase II and Phase III. The plaintiffs were also engaged to make extensive study and preliminary work in the over-all study of the site and original program of the defendants for which the plaintiffs were to receive the amount of \$4,200.00, to, at a later date, be applied as a credit against that much of the fee under the portion of the contract known as Phase III. And the plaintiffs say that, although they complied with the initial portion of the contract and made extensive studies and did extensive work pertaining to the study of the site and the original program, and made drawings which were furnished to the defendants pursuant to the agreement, and after devoting several months' time to the development, study and promotion of the project, and being ready, willing and able to perform all of their obligations thereunder, the defendants breached the contract and failed to comply with their provisions and requirements of the contract, viz.; they failed and refused to pay the plaintiffs the amounts of money agreed upon and employed other architects and refused to go forward with the agreement and plaintiffs were damaged in that they have not been paid for the services rendered, their drawings were used to enlist financial backing for the construction

and development of the project, and to interest prospective members, the plaintiffs spent many hours work on the study and drawings and moved their offices to larger offices and added additional equipment and added an additional technical employee for the expansion of their office force, and lost many thousands of dollars in architectural fees by not being able to take on other work as a result of their commitment for this particular job.

COUNT II

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that on, to-wit, the 6th day of August, 1959, for the purpose of inducing plaintiffs to spend many hours study and work in studying the site and program for the development and construction of a bowling alley and related facilities, swim club including pool, cabanas, restaurant, marina and related facilities, including docking facilities, club rooms and possible motel facilities, concessions, boat storage, etc., and furnishing architectural drawings to the defendants pertaining to same, represented to the plaintiffs that the plaintiffs and defendants would enter into and did enter into an agreement that the plaintiffs would be the architects pertaining to such construction and development, said construction and development to be located on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and that the plaintiffs would be paid 3.7% of the initial phase of construction and 6% on the balance of such construction, based on the estimated cost which at the time was estimated to be between \$2,500,000.00 and \$3,000,000.00, and that the plaintiffs would be paid for their initial work, and defendants further represented that no other architects had been engaged or contracted with to perform such services.

The plaintiffs were thereby induced to prepare studies and drawings and to deliver the architectural drawings of these facilities of a value of, to-wit, \$45,000.00, and expended many hours work and many dollars for larger offices and increased their staff and lost many thousands of dollars by not being able to take on other work due to this commitment.

The said representations of the defendants were false and then known or ought to be known to them as false, and that the defendants have not paid for said drawings and work performed by the plaintiffs.

COUNT III

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the period from August 6, 1959 through September 8, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection

and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00, and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants; and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IV

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the 6th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these

representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT 7

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 18th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the represent-

ations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VI

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 19th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 28th day of August, 1959, the defendants represented to the plaintiff that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Fenida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VIII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 8th day of September, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and

boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IX

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) for work and labor done for the defendants by the plaintiffs during the period from, to-wit, August 6, 1959 through October, 1959, at defendants' request, which sum of money with interest thereon is still unpaid.

PARKER AND SALMON

By

Attorneys for Plaintiffs

Plaintiffs demand a trial by jury.

Of Attorneys for Plaintiffs

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 1366

-----TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon

BERNARD C. BERTAN, STANLEY WILK, ET AL

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against -----

BERNARD C. BERTAN, STANLEY WILK, and ET AL

-----, Defendant-----

by

MARTIN R. KIRKENDALL, & ALLEN D. ALFORD

-----, Plaintiff-----

Witness my hand this

2nd

day of

August

19 60

Alice J. Duck

-----, Clerk

No. _____ Page _____

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

Plaintiffs

vs.

Defendants

Summons and Complaint

Filed _____ 19____

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

, 19____

Sheriff.

I have executed this summons

this _____ 19____

by leaving a copy with

Sheriff.

Deputy Sheriff.

MARVIN E. KILLINGSWORTH AND
ALLISON S. ALFORD,

Plaintiffs,

VS.

BERNARD C. BERMAN; STANLEY
WINN; GEORGE C. WILKERSON;
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION; THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION; DOLPHIN CORPORATION, A CORP-
ORATION; THE PINEDA CLUB, INC., A
CORPORATION; JOHN DOE, RICHARD DOE,
ABC COMPANY, A PARTNERSHIP, AND XYZ
CORPORATION, A CORPORATION, WHOSE
NAMES ARE OTHERWISE UNKNOWN BUT WILL
BE ADDED BY AMENDMENT WHEN ASCER-
TAINED,

Defendants.

IN THE CIRCUIT COURT

OF

SALADIN COUNTY, ALABAMA

AT LAW

COURT I

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) damages for the breach of an agreement entered into by them on, to-wit, the 6th day of August, 1959, in substance as follows:

The plaintiffs were engaged and employed and agreed to perform professional services as architects, including preliminary design studies, working drawings and specifications and supervision of construction pertaining to the erection and construction of commercial and club facilities for the defendants on the east shore of Pineda Island adjacent to U. S. Highway 90, on the north side of said highway, the cost of said construction having been estimated at somewhere between \$2,500,000.00 and \$1,000,000.00, for which the plaintiffs were to receive 3.7% for the bowling alley and related facilities, designated between the parties as Phase I, and to receive 6% of the estimated cost for the balance of the construction, consisting of Phase II and Phase III. The plaintiffs were also engaged to make extensive study and preliminary work in the over-all study of the site and original program of the defendants for which the plaintiffs were to receive the amount of \$4,200.00, to, at a later date, be applied as a credit against that much of the fee under the portion of the contract known as Phase III. And the plaintiffs say that, although they complied with the initial portion of the contract and made extensive studies and did extensive work pertaining to the study of the site and the original program, and made drawings which were furnished to the defendants pursuant to the agreement, and after devoting several months' time to the development, study and promotion of the project, and being ready, willing and able to perform all of their obligations thereunder, the defendants breached the contract and failed to comply with their provisions and requirements of the contract, viz.: they failed and refused to pay the plaintiffs the amounts of money agreed upon and employed other architects and refused to go forward with the agreement and plaintiffs were damaged in that they have not been paid for the services rendered, their drawings were used to enlist financial backing for the construction

and development of the project, and to interest prospective members, the plaintiffs spent many hours work on the study and drawings and moved their offices to larger offices and added additional equipment and added an additional technical employee for the expansion of their office force, and lost many thousands of dollars in architectural fees by not being able to take on other work as a result of their commitment for this particular job.

COUNT II

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that on, to-wit, the 6th day of August, 1959, for the purpose of inducing plaintiffs to spend many hours study and work in studying the site and program for the development and construction of a bowling alley and related facilities, swim club including pool, cabanas, restaurant, marina and related facilities, including docking facilities, club rooms and possible motel facilities, concessions, boat storage, etc., and furnishing architectural drawings to the defendants pertaining to same, represented to the plaintiffs that the plaintiffs and defendants would enter into and did enter into an agreement that the plaintiffs would be the architects pertaining to such construction and development, said construction and development to be located on the east shore of Florida Island adjacent to U. S. Highway 90 on the north side of said highway, and that the plaintiffs would be paid 5.7% of the initial phase of construction and 6% on the balance of such construction, based on the estimated cost which at the time was estimated to be between \$2,500,000.00 and \$3,000,000.00, and that the plaintiffs would be paid for their initial work, and defendants further represented that no other architects had been engaged or contracted with to perform such services.

The plaintiffs were thereby induced to prepare studies and drawings and to deliver the architectural drawings of these facilities of a value of, to-wit, \$45,000.00, and expended many hours work and many dollars for larger offices and increased their staff and lost many thousands of dollars by not being able to take on other work due to this commitment.

The said representations of the defendants were false and then known or ought to be known to them as false, and that the defendants have not paid for said drawings and work performed by the plaintiffs.

COUNT III

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the period from August 6, 1959 through September 8, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Florida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection

and would pay to the plaintiffs for such services 3.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00, and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants; and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IV

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the 6th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 70 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 3.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these

representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COURT V

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 18th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,300,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection ^{and} used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the represent-

ations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VI

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 19th day of August, 1939, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Fenida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 28th day of August, 1959, the defendants represented to the plaintiff that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Florida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VIII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 8th day of September, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and

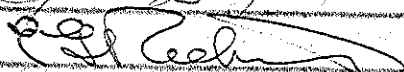
boat storage, etc., on the east shore of Fenida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IX

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) for work and labor done for the defendants by the plaintiffs during the period from, to-wit, August 6, 1959 through October, 1959, at defendants' request, which sum of money with interest thereon is still unpaid.

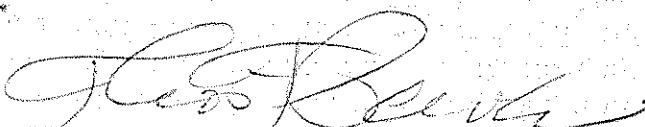
PARKER AND CARRON

By



Attorneys for Plaintiffs

Plaintiffs demand a trial by jury.



OF Attorneys for Plaintiffs

MARVIN H. KILLINGSWORTH AND
ALLISON S. ALFORD,

Plaintiffs,

VS.

BERNARD C. BERMAN; STANLEY
WINN; GEORGE C. WILKERSON;
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION; THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION; DOLPHIN CORPORATION, A CORP-
ORATION; THE PINEDA CLUB, INC., A
CORPORATION; JOHN DOE, RICHARD ROE,
ABC COMPANY, A PARTNERSHIP, AND XYZ
CORPORATION, A CORPORATION, WHOSE
NAMES ARE OTHERWISE UNKNOWN BUT WILL
BE ADDED BY AMENDMENT WHEN ASCER-
TAINED,

Defendants.

IN THE CIRCUIT COURT

OF

BALDWIN COUNTY, ALABAMA

AT LAW

#4366

COUNT I

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) damages for the breach of an agreement entered into by them on, to-wit, the 6th day of August, 1959, in substance as follows:

The plaintiffs were engaged and employed and agreed to perform professional services as architects, including preliminary design studies, working drawings and specifications and supervision of construction pertaining to the erection and construction of commercial and club facilities for the defendants on the east shore of Pineda Island adjacent to U. S. Highway 90, on the north side of said highway, the cost of said construction having been estimated at somewhere between \$2,500,000.00 and \$3,000,000.00, for which the plaintiffs were to receive 5.7% for the bowling alley and related facilities, designated between the parties as Phase I, and to receive 6% of the estimated cost for the balance of the construction, consisting of Phase II and Phase III. The plaintiffs were also engaged to make extensive study and preliminary work in the over-all study of the site and original program of the defendants for which the plaintiffs were to receive the amount of \$4,200.00, to, at a later date, be applied as a credit against that much of the fee under the portion of the contract known as Phase III. And the plaintiffs say that, although they complied with the initial portion of the contract and made extensive studies and did extensive work pertaining to the study of the site and the original program, and made drawings which were furnished to the defendants pursuant to the agreement, and after devoting several months' time to the development, study and promotion of the project, and being ready, willing and able to perform all of their obligations thereunder, the defendants breached the contract and failed to comply with their provisions and requirements of the contract, viz.; they failed and refused to pay the plaintiffs the amounts of money agreed upon and employed other architects and refused to go forward with the agreement and plaintiffs were damaged in that they have not been paid for the services rendered, their drawings were used to enlist financial backing for the construction

and development of the project, and to interest prospective members, the plaintiffs spent many hours work on the study and drawings and moved their offices to larger offices and added additional equipment and added an additional technical employee for the expansion of their office force, and lost many thousands of dollars in architectural fees by not being able to take on other work as a result of their commitment for this particular job.

COUNT II

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that on, to-wit, the 6th day of August, 1959, for the purpose of inducing plaintiffs to spend many hours study and work in studying the site and program for the development and construction of a bowling alley and related facilities, swim club including pool, cabanas, restaurant, marina and related facilities, including docking facilities, club rooms and possible motel facilities, concessions, boat storage, etc., and furnishing architectural drawings to the defendants pertaining to same, represented to the plaintiffs that the plaintiffs and defendants would enter into and did enter into an agreement that the plaintiffs would be the architects pertaining to such construction and development, said construction and development to be located on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and that the plaintiffs would be paid 5.7% of the initial phase of construction and 6% on the balance of such construction, based on the estimated cost which at the time was estimated to be between \$2,500,000.00 and \$3,000,000.00, and that the plaintiffs would be paid for their initial work, and defendants further represented that no other architects had been engaged or contracted with to perform such services.

The plaintiffs were thereby induced to prepare studies and drawings and to deliver the architectural drawings of these facilities of a value of, to-wit, \$45,000.00, and expended many hours work and many dollars for larger offices and increased their staff and lost many thousands of dollars by not being able to take on other work due to this commitment.

The said representations of the defendants were false and then known or ought to be known to them as false, and that the defendants have not paid for said drawings and work performed by the plaintiffs.

COUNT III

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the period from August 6, 1959 through September 8, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection

and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00, and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants; and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IV

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) for that heretofore on, to-wit, the 6th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these

representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT V

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 18th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the represent-

ations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VI

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 19th day of August, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 28th day of August, 1959, the defendants represented to the plaintiff that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT VIII

The plaintiffs claim of the defendants, jointly and severally, Two Hundred Thousand Dollars (\$200,000.00) damages for that heretofore on, to-wit, the 8th day of September, 1959, the defendants represented to the plaintiffs that they planned to construct and erect certain commercial and club facilities, to-wit: bowling alley and related facilities, swimming pool including pool, cabanas and restaurant, and marina and related facilities including docking facilities, club rooms, possible motel facilities and concession and

boat storage, etc., on the east shore of Penida Island adjacent to U. S. Highway 90 on the north side of said highway, and upon submission of drawings or sketches to defendants, defendants represented to the plaintiffs that they would enter into an agreement whereby the plaintiffs would be engaged as the architects for services, including the design, studies, working drawings and specifications for all work pertaining to such construction and erection and would pay to the plaintiffs for such services 5.7% pertaining to the bowling alley and related facilities, and 6% pertaining to the remaining facilities and developments based on the estimated cost thereof, which, at the time, was estimated between \$2,500,000.00 and \$3,000,000.00 and further represented to the plaintiffs that no other architects had been engaged or contracted with to perform these services; that the plaintiffs relied upon said statements and entered into the work and submitted drawings to the defendants which were approved by the defendants and used by the defendants in connection with the procuring of the financial backing for such construction and erection used by the defendants to interest prospective members and, acting in reliance upon these representations the plaintiffs did the following, to-wit: moved their offices to a new location providing larger offices and added equipment to give layout, facilities and space requirements and added an additional technical employee and spent many hours making plans for the reorganization of their offices, the plaintiffs spent many hours labor in preparing the plans which were submitted to the defendants and used by the defendants and expended considerable sums of money in travel and expenses away from home, and completed at least one-half of the initial preliminary phase of the architectural work all in reliance of the statements of the defendants, and plaintiffs aver that the representations were false in this, that the defendants did not consummate or continue the contract with the plaintiffs, have not paid the plaintiffs anything for their work, but, to the contrary, entered into, or had already entered into, a contract with another architectural firm or architect which firm or architect plaintiffs are informed and believe is not a resident of this state and plaintiffs further aver that such representations were made for the purpose of deceiving the plaintiffs and did deceive the plaintiffs to their damages as aforesaid.

COUNT IX

The plaintiffs claim of the defendants, jointly and severally, One Hundred Seventy-Five Thousand Dollars (\$175,000.00) for work and labor done for the defendants by the plaintiffs during the period from, to-wit, August 6, 1959 through October, 1959, at defendants' request, which sum of money with interest thereon is still unpaid.

PARKER AND SALMON

By Thomas H. Parker

E. L. Salmon
Attorneys for Plaintiffs

Plaintiffs demand a trial by jury.

FILED
AUG 2 1960

ALICE J. DUCK, Clerk

Thomas H. Parker
Of Attorneys for Plaintiffs

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. 4366

-----TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon BERNARD C. BERMAN, STANLEY WINN, ET ALS

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against -----

BERNARD C. BERMAN, STANLEY WINN, and ET ALS -----, Defendant-----

by MARVIN H. KILLINGSWORTH, & ALLISON S. ALFORD -----

-----, Plaintiff-----

Witness my hand this 2nd ----- day of August ----- 19 60

Alice J. Luck -----, Clerk

No. 4366

Page

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

MARVIN H. KILLINGSWORTH &

ALLISON S. ALFORD

Plaintiffs

vs.

BERNARD C. BERMAN, STANLEY WINN,

AND ET ALS

Defendants

Summons and Complaint

Filed August 2nd 1960

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

7194
Defendant lives at

Received In Office

8/5, 1960

Sheriff.

I have executed this summons

this 8-5-60 19

by leaving a copy with

Stanley Winn
George Killkenson
8-10-60

Sheriff 120
1200
W. O. Garner
Deputy Sheriff

Taylor Wilkins
Sheriff.

W. O. Garner
Deputy Sheriff.

Causeway

EE 24616
HE 38085

MARVIN H. KILLINGSWORTH and
ALLISON S. ALFORD,

Plaintiffs,

-VS-

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

CASE NO. 4366

BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPORA-
TION, DOLPHIN CORPORATION, A CORPORA-
TION, THE PINEDA CLUB, INC., A CORP-
ORATION, JOHN DOE, RICHARD DOE, ABC
COMPANY, A PARTNERSHIP, AND XYZ COR-
PORATION, A CORPORATION, WHOSE NAMES
ARE OTHERWISE UNKNOWN BUT WILL BE
ADDED BY AMENDMENT WHEN ASCERTAINED,

Defendants.

NOTICE TO TAKE DEPOSITION

To The Defendants Above, Namely: BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON, KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE ON PINEDA ISLAND, INC., A
CORPORATION, DOLPHIN CORPORATION, A CORPORATION, THE PINEDA
CLUB, INC., A CORPORATION, AND TO THOMPSON AND WHITE, ATTORNEYS
FOR THE DEFENDANTS:

Please take notice that the Plaintiffs herein will
take, in the above entitled action to be used as authorized by
Article 6A, Title 7 of the 1958 Code of Alabama, the depositions
of MR. STANLEY WINN and MR. GEORGE C. WILKERSON, witnesses, be-
fore an officer authorized to administer oaths under the Laws
of the State of Alabama, who is not of counsel nor attorney for
any of the parties to, nor relative nor employee of such counsel,
or attorney, nor interested in this case, on Wednesday, November
2nd, 1960, at 9:30 o'clock, A. M., in the Law Library of the
Baldwin County Court House in Bay Minette, Alabama, at which
time and place you are hereby notified to appear and take such
part in such examination as you may be advised, and as shall
be fit and proper.

Done this the 20 day of October, 1960.

FILED

OCT 21 1960

ALICE J. DUCK, CLERK,
REGISTER

PARKER AND SALMON, and
E. G. RICKARBY.

By E. G. Rickarby
E. G. RICKARBY of Counsel
of Plaintiffs.

No. 4366

Marvin A. Killingsworth

vs

Bernard C. Bernman et al.

FILED

OCT 21 1960

ALICE J. DUCK, CLERK
REGISTER

Received _____ day of _____ 19____
and on 26 day of Oct 1960
I served a copy of the within George C. Killbucken
on Stanley Twyman
Ruby Lewis Leon Clark Managers
By service on _____

Ronald C. Bernman not found
Returned 26 day of Oct 1960
Not found in my county after diligent search and the
guilty.

Staylor Wilkins, Sheriff
W. O. Garner
Deputy Sheriff

TAYLOR WILKINS, Sheriff
By W. O. Garner D. S.
Sanctuary Sheriff claims 180 miles at 800
Ten Cents per mile Total \$ 144
TAYLOR WILKINS, Sheriff
BY Garner
DEPUTY SHERIFF

MARVIN E. KILLINGSWORTH and
ALLISON S. ALFORD,

Plaintiffs,

VS

BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON,
KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE
ON PINEDA ISLAND, INC., A CORPOR-
ATION, DOLPHIN CORPORATION, A CORPOR-
ATION, THE PINEDA CLUB, INC., A CORP-
ORATION, JOHN DOE, RICHARD ROE, ABC
COMPANY, A PARTNERSHIP, AND XYZ COR-
PORATION, A CORPORATION, WHOSE NAMES
ARE OTHERWISE UNKNOWN BUT WILL BE
ADDED BY AMENDMENT WHEN ASCERTAINED,

Defendants.

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

CASE NO. 4366

NOTICE TO TAKE DEPOSITION

To The Defendants Above, Namely: BERNARD C. BERMAN, STANLEY
WINN, GEORGE C. WILKERSON, KEY CLUB OF PINEDA ISLAND, INC.,
A CORPORATION, THE CLUB OF MOBILE ON PINEDA ISLAND, INC., A
CORPORATION, DOLPHIN CORPORATION, A CORPORATION, THE PINEDA
CLUB, INC., A CORPORATION, AND TO MESSRS. THOMPSON AND WHITE,
ATTORNEYS FOR THE DEFENDANTS:

Please take notice that that the Plaintiffs herein will
take, in the above entitled action to be used as authorized by
Article 6A, Title 7 of the 1958 Code of Alabama, the deposition
of MR. BERTRAND GOLDBERG, witness, whose address is "Bertrand
Goldberg and Associates, 721 No. Michigan Avenue, Chicago, Ill-
inois", before an officer authorized to administer oaths under
the Laws of the State of Alabama, who is not of counsel nor at-
torney for any of the parties to, nor relative nor employee of
such counsel, or attorney, nor interested in this case, on Fri-
day, November 17, 1960, at 1:30 o'clock, A.M. in the Law Li-
brary of the Baldwin County Court House in Bay Minette, Alabama,
at which time and place you are hereby notified to appear and
take such part in such examination as you may be advised, and
as shall be fit and proper.

Done this the 17th day of November, 1960.

PARKER AND SALMON, and
E. G. RICKARBY,

BY: E. G. Rickarby
E. G. RICKARBY of Counsel of
Plaintiffs.

FILED

NOV 14 1960

ALICE L. DUCK, CLERK
REGISTER

NO. 4266

Marvin H. Killingsworth
et al.

vs

Bernard G. Bernard
et al.

Received 14 day of Nov 1960

and on 16 day of Nov 1960

I served a copy of the within Notice

on Thompson & White

By service on Mrs White

TAYLOR WILKINS, Sheriff

By W. A. Talbot D. S.

Done

20 be served with
Thompson & White

FILED

NOV 14-60

ALICE J. DUCK, CLERK
REGISTER