

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA
EQUITY DIVISION

SCOTT EICHELBERGER,

Plaintiff,

vs.

RHONDA BURROUGHS,

Defendant.

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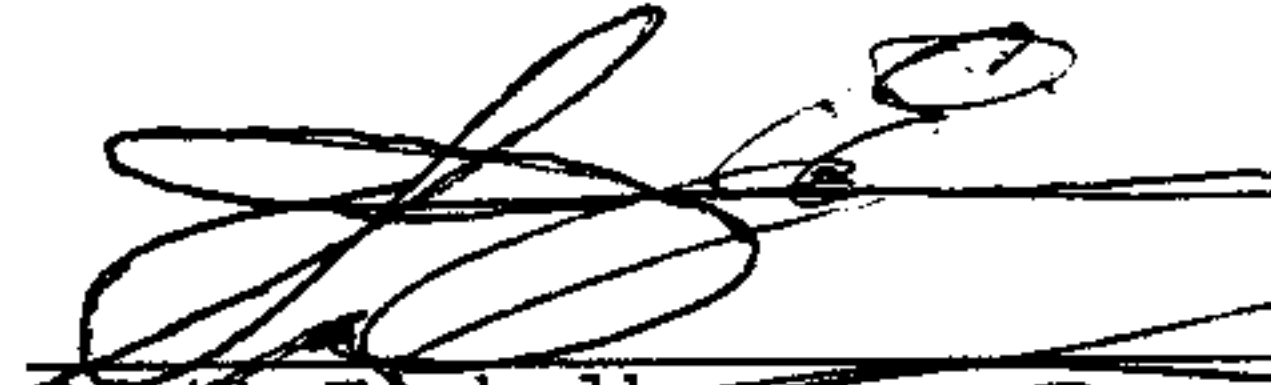
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Case No. CV-93-664-J

LIS PENDENS

TAKE NOTICE THAT THE ABOVE STYLED CAUSE WAS FILED IN THE CIRCUIT COURT FOR SHELBY COUNTY, ALABAMA ON THE 3rd DAY OF SEPTEMBER, 1993 AND IS NOW PENDING. A COPY OF THE COMPLAINT IS ATTACHED AS EXHIBIT "A." THE STATED PURPOSE OF SAID ACTION IS TO ENFORCE PLAINTIFF'S CLAIMS FOR DAMAGES AGAINST DEFENDANT AND PLAINTIFF'S INTEREST IN THE PROPERTY MADE THE BASIS OF THIS LIS PENDENS. DEFENDANT HAS AN INTEREST IN THE HEREIN BELOW DESCRIBED PROPERTY SITUATED IN SHELBY COUNTY, ALABAMA.

Lot 59, Eaglewood Estates, 1st Sector, Map Book 7, Page 45; Deed recorded in Real 225, Page 394.


Scott Eichelberger


Richard Vincent, Esq.
Attorney for the Plaintiff
TELEPHONE: (205) 979-4490

OF COUNSEL:

VINCENT, HASTY, ARNOLD & TIDMORE, P.C.
2090 Columbiana Road, Suite 4400
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Birmingham, Alabama 35202-2784

PLEASE SERVE UPON DEFENDANT SIMULTANEOUSLY WITH THE SUMMONS AND COMPLAINT.

Inst # 1993-26918

09/03/1993-26918
12:50 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 HJS 21.00

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COMPLAINT

Comes now the Plaintiff, Scott Eichelberger, and files this his Complaint against the Defendant and shows unto this Honorable Court as follows:

COUNT ONE

Equitable Title

1. On or about July, 1988, Plaintiff and Defendant began living together in anticipation of marriage.

2. The Plaintiff moved into an apartment leased by the Defendant, taking with him various items of personal property, furniture and fixtures.

3. In, to-wit; January, 1989, the Plaintiff's financial situation had become unstable. The Plaintiff and Defendant desired to purchase a home in regard to their anticipated marriage, and Plaintiff delivered to Defendant the sum of \$3,000.00 which sum was used by the Defendant to pay a portion of the down payment on said residence. The Defendant, thereafter, acquired, in her name only by agreement of the parties, a residence located at 1002 Burnt Pine Drive, Maylene, Alabama. Thereafter, the Plaintiff put labor and materials in the approximate amount of \$10,000.00 and completely remodeled the interior and exterior of the residence.

At or about the same time the residence was acquired, the Plaintiff and Defendant entered into a second transaction where the Plaintiff transferred to the Defendant, through a bonafide transfer, all assets in Plaintiff's construction company known as Southeastern Construction with the understanding that the Defendant would transfer said assets back to the Plaintiff when the Plaintiff resolved his financial difficulties. The Defendant has failed and refused to transfer the Plaintiff's business assets back to the Plaintiff and has failed and refused to place the Plaintiff's name on the title to the residence.

4. On or about the 24th day of September, 1992, a child was born between the parties, although no marriage had taken place at that time.

5. On the 4th day of January, 1992, the residence of the parties located at 1002 Burnt Pine Drive, Maylene, Alabama was extensively damaged by a fire. The insurance carrier in regard to the residence paid approximately \$60,000.00 to the Defendant for said damage.

6. The Plaintiff, through the construction business and himself personally, made all repairs and substantial additions to said residence without cost to the Defendant. The Plaintiff avers that approximately \$8,500.00 of funds over and above the insurance proceeds were spent by the Plaintiff in regard to the repairs and improvements to the residence with the express understanding by the parties that the parties would marry, that the Plaintiff's name would be placed on the title to the residence by the Defendant and

that the Defendant would transfer the Plaintiff's business assets back to him.

7. After the repairs to the residence were completed, the Defendant failed and refused to put the Plaintiff's name on the title to the residence, failed and refused to transfer the business assets to the Plaintiff and further refused to marry the Plaintiff. Defendant, thereafter, ordered the Plaintiff to leave the residence. The Plaintiff vacated the premises on or about the 26th day of April, 1993.

8. Plaintiff avers that the Plaintiff is entitled to a one-half interest in said property and that the Plaintiff has equitable title thereto equally and concurrently with Defendant.

The Plaintiff offers to do equity.

WHEREFORE, Plaintiff prays this Honorable Court will enter an Order that the Plaintiff is a joint owner of the property equally with the Defendant and award such title to the Plaintiff.

COUNT TWO

Conversion

9. The Plaintiff herein adopts the allegations contained in Paragraph 1 - 8 in their entirety.

10. On the 26th day of April, 1993 when the Plaintiff was removed from the parties' residence by the Defendant, the Plaintiff had various items of personal property located at said residence, including but not limited to, a component stereo system, antique Coca Cola machine, 19" portable color television set, 27" Magnavox color television set, various power and hand tools, One Petri 35 mm camera, together with various lenses for said camera, One Yashika

35 mm camera, together with various lenses for said camera and a bedroom suit, including dresser, end tables, head board and chest of drawers, which said property the Defendant failed and refused to allow the Plaintiff to remove same.

11. The Plaintiff avers that the Defendant has now moved or otherwise disposed of said property and that the actions of the Defendant amount to a conversion of the Plaintiff's property.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendant for Five Thousand and no/100 (\$5,000.00) Dollars compensatory damages and Fifty Thousand and no/100 (\$50,000.00) Dollars as punitive damages.

COUNT THREE

Accounting & Equitable Lien

12. The Plaintiff herein adopts the allegations contained in Paragraph 1 - 11 in their entirety.

13. Plaintiff avers that the Defendant, although Defendant is claiming ownership of the business assets and the business generally and has total control over the bank accounts and assets of the business, has failed and refused to pay valid debts of the business thereby injuring and damaging Plaintiff's reputation and standing with Plaintiff's creditors and in the business community.

14. Plaintiff further avers, upon information and belief, that the Defendant has taken approximately \$10,000.00 from the accounts of the business for her own use and has refused to pay creditors the sums owed to creditors. All sums in the business accounts were earned by the direct efforts of the Plaintiff, and Defendant has not been engaged in the business activities of the

Plaintiff, other than to hold title to the assets, at any point in time complained of in this Complaint.

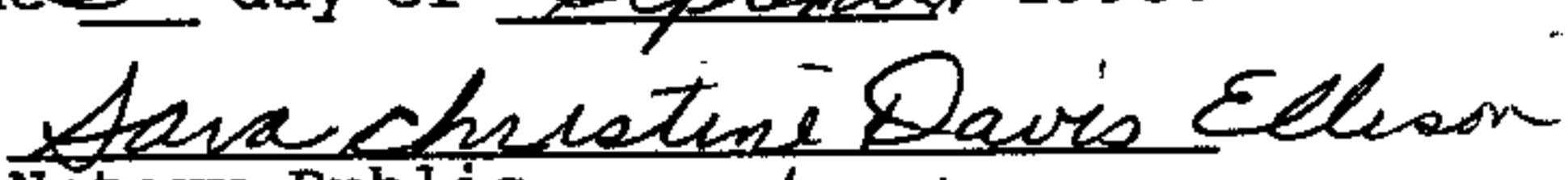
15. Plaintiff prays that this Honorable Court will take jurisdiction over the matters complained of herein and:

A. Establish an equitable lien in favor of Plaintiff against all assets in the business known as Modern Quality Construction; and

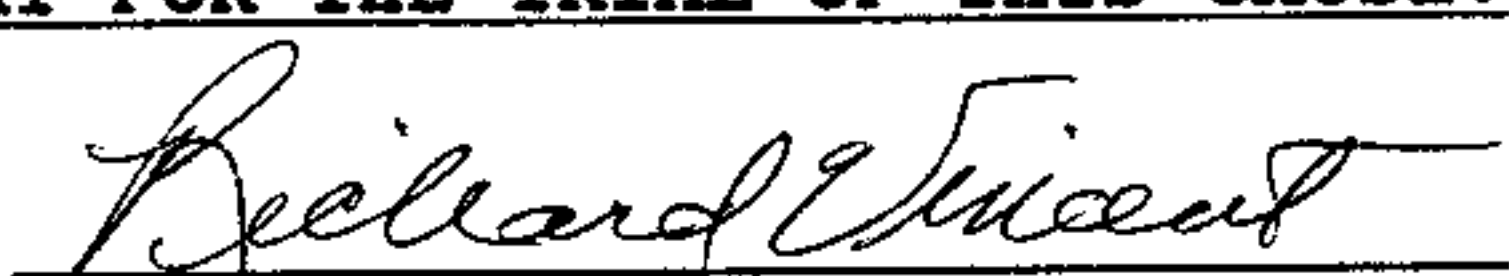
B. Require the Defendant to give a full and complete accounting for all sums removed by the Defendant from said business and give Plaintiff a judgment for any such sums so Plaintiff may pay the creditors of said business.


Scott Eichelberger

Sworn to and subscribed this the 30th day of September 1993.


Notary Public
My Comm. Exp. 1/21/97

PLAINTIFF HEREBY DEMANDS A JURY FOR THE TRIAL OF THIS CAUSE.


Richard Vincent
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OF COUNSEL:

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Birmingham, Alabama 35202-2784

DEFENDANT'S ADDRESS:

100 Lakewood Drive
Alabaster, AL 35007

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