

*Person dependent
556 Preetman St*

IN THE CIRCUIT COURT

OF
BALTIMORE CITY

*382
AT 9 23*

PERRY T. WILSON

VS.

CARROL DAY

556 Preetman St.

1 Order

Mr. Clerk:-

Please file.

*a/2278
L1) L3)*

J. Steward Davis
ATTORNEY FOR PLAINTIFF.

DAVIS & BISHOP
ATTORNEYS AT LAW
BANNEKER BUILDING
14 E. PLEASANT STREET
BALTIMORE, MD.

Pl. 25 July 1923

*Copy of the within Order of Court served on
Carrol Day on the 27th day of July 19 23 in
the presence of Alexis R. Kitchin -
Thomas A. McCully
Sheriff.*

Fees \$ 0.50

PERRY T. WILSON : IN THE CIRCUIT COURT
VS. : OF
CARROL DAY : BALTIMORE CITY.

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Your Orator complaining respectfully says:

(1) That on or about the 16th day of May, 1923 your Orator and the respondent agreed to form and did form a partnership known as the Lafayette Auto Service Company, which company engaged in the general automobile business, to wit: the hiring of automobiles and the repairing of same.

(2) That the aforementioned, Perry T. Wilson, prior to the formation of the aforementioned partnership, had been engaged in the general automobile business at 606 W. Lafayette Avenue and that the said Perry T. Wilson owned all the tools, appliances, etc, necessary for the carrying on of the aforementioned business; that the said Perry T. Wilson had a prosperous and ~~growing~~^{going} business at 606 W. Lafayette Avenue at the time of the formation of the partnership, and that Perry T. Wilson and Perry T. Wilson alone was the sole proprietor of the aforementioned place of business prior.

(3) That the said Perry T. Wilson contributed his entire place of business, including the tools, implements and the patronage plus his (Perry T. Wilson's) knowledge of the automobile business. That the respondent had no expert knowledge of the automobile business and could do no more than operate an automobile. That the business and services of the said Perry T. Wilson, by agreement between Perry T. Wilson and the respondent

were valued at ^{eight}~~seven~~ hundred and fifty (^{\$850}~~\$750.00~~) dollars. That the said Carrol Day contributed nine hundred and fifty (\$950) dollars cash, which funds were used to purchase three automobiles to wit: on the 18th day of May, 1923 one Cadillac ^{Limousine} was purchased at the price of eleven hundred and fifty (\$1150) dollars, on which a first payment was made to the amount of four hundred (\$400) dollars; on the 21st day of May, 1923 one Cadillac ^{Limousine} touring car was bought at purchase price of thirteen hundred and fifty (\$1350) dollars, on which four hundred (\$400) dollars were paid; on the 22nd day of May, 1923, one Pierce Arrow ^{Limousine} car was purchased at the price of five hundred (\$500) dollars on which a first payment to the amount of one hundred and fifty (\$150) dollars was made, the balance due on the aforementioned cars was secured by a series of notes executed by Day and Wilson, in the name of Day and Wilson, said notes extending over a period of one year from date of purchase, notes being due monthly. The total amount due monthly on the three cars was about one hundred and ninety (\$190) dollars. The notes falling due in the month of June, 1923, ^{to} the above amount was met from the proceeds of the partnership business. That the aforementioned cars were purchased in the name of Day and Wilson, that the aforementioned automobiles are registered at the office of the Commissioner for Motor Vehicles in the name of Day and Wilson.

(4) That the agreement between the parties to the partnership agreement was that the proceeds of the partnership business were to be used for the expenses of the business and the payment of the notes due on account of the purchase of the aforementioned automobiles, and whatever balance remained was to be divided equally among the partners, except that the respondent was to first deduct the ^{one}~~two~~ hundred (^{\$100}~~\$200~~) dollars due him inasmuch as he had contributed nine hundred and fifty (\$950) dollars, while

your orator had contributed eight hundred and fifty (\$850) dollars i.e., the value of his business, knowledge of the business, place of business and his tools.

(5) That from May 16, 1923 until on or about the first day of July, 1923 your Orator and the respondent conducted the aforementioned business as per terms of the partnership agreement, that on or about the first day of July the respondent in violation of the aforementioned partnership agreement and against the will of your orator carried away one of the aforementioned Cadillac cars and the aforementioned Pierce Arrow and that the respondent is now conducting a business of hiring the aforementioned cars at a place other than the location of the partnership business and that the respondent is not accounting to your Orator for what ever funds the respondent is collecting as a result of the use of the aforementioned automobiles.

(6) That by reason of the premises the partnership effects, if properly administered would not only discharge the partnership debts but yield a surplus for distribution between the partners, but if not properly administered they will be so far diminished as to become inadequate to pay debts of partnership and to injury of the creditors of the partnership as well as your Orator.

(7) That your Orator is injured in that the business that he was conducting prior to the formation of the partnership was abandoned because of the formation of the partnership and injured farther because he is deprived of the means of receiving any substantial revenue from the partnership business because of the respondent's taking away of the aforementioned automobiles.

(8) - That the partnership is insolvent
(9) - That irreconcilable differences have arisen.

TO THE END, THEREFORE; YOUR ORATOR PRAYS:

(a) That a restraining order be issued against the said Carrol Day, restraining him from selling, disposing of, using or retaining any of the goods or effects of the said partnership or collecting any debts due thereto or negotiating any bill or note or contracting any debts whatsoever on account thereof.

appointed (b) That the partnership may be declared to be dissolved and ^{that a receiver be} that an account of its business may be taken under the direction of this Court, and that its effects may be applied to the payment of its debts and liabilities and the residue thereof distributed between the partners.

(c) That he may have such other and further relief as the case may require.

May it please your Honor to grant unto your Orator the Writ of Subpoena directed to the said Carrol Day commanding and requiring him to be and appear in this Court at some certain day to be named therein and perform such decree and abide by and perform such decree as may be passed therein.

AND as in duty bound, etc.



SOLICITOR FOR PLAINTIFF.

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I hereby certify, that on this 9th day of July, in the year one thousand nine hundred and twenty three, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City aforesaid, personally appeared Perry T. Wilson and made oath in due form of law that the matters and facts contained in the foregoing Bill are true to the best of his knowledge and belief.

WITNESS my hand and Notarial Seal.



NOTARY PUBLIC.

Ordered this ¹¹25 day of July, by the Circuit Court of Baltimore City, upon the foregoing bill and affidavit, that a restraining order be issued against the said Carrol Day, restraining him from selling, disposing of, using or retaining any of the goods or effects of the said partnership or collecting any debts due thereto or negotiating any bill or note or contracting any debts whatsoever on account thereof.

clearly be appointed That the partnership may be declared to be dissolved *that a receiver* and that an account of its business may be taken under the direction of this Court, and that its effects may be applied to the payment of its debts and liabilities and the residue thereof distributed between the partners, unless cause to the contrary be shown on or before the 6th day of August 1923.

Charles F. Stein

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Ct. Ct.

192

Docket No.

63

Nilson

vs.

Ray

SUBPOENA TO ANSWER BILL OF COMPLAINT

Pro

No.

12278

(2)

Filed

31 July
Newman Paris

1923

SOLICITOR

11

Summons and a copy of the Process left
with the defendant -

Thomas J. Murphy
Sheriff -

Fee \$1.80

(Pitcock)
727-23

EQUITY SUBPOENA

The State of Maryland

On *Carol Ray*
#556 Resstman Ct.

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law beginning on the second Monday of *August* next cause an appearance to be entered for you and your answer to be filed to the complaint of

Harry G. Nelson

against you exhibited in the Circuit Court of Baltimore City, HEREOF fail not, as you will answer the contrary at your peril:

WITNESS, the Honorable JAMES P. GORTER, Chief Judge of the Supreme Bench of Baltimore City, the *9th* day of *July* 192 *3*
Issued the *25th* day of *July*, in the year 192 *3*

Charles P. Whiteford
Clerk.

MEMORANDUM: You are required to file your answer or other defense in the Clerk's Office, room 206, in the Court House, Baltimore City, within fifteen days after return day.

(General Equity Rules 11.)

63a/382

In the Circuit Court of
Baltimore City.

PERRY T. WILSON

VS

CARROLL DAY

Answer.

Mr. Clerk,
Please file

Milton D. Greenbaum

Sol. for Defendant.

a 12278

(24)

DANIEL GREENBAUM,

MILTON D. GREENBAUM,

ATTORNEYS AT LAW,

SUITE 1007 FIDELITY BUILDING,

BALTIMORE, MD.

St. August 1953

3/8/53

PERRY T. WILSON *
 *
 VS. * In the Circuit Court of Baltimore City.
 *
CARROLL DAY *

To the Honorable, the Judge of said Court.

The Answer of Carroll Day to the Bill of Complaint against him in this Court exhibited, respectfully shows:-

1. He denies that a partnership was formed in the manner alleged in the first paragraph of the Bill of Complaint.

2. He admits that the Plaintiff owned a business, tools and equipment at 606 W. Lafayette Avenue but he avers that the business was not profitable, but was being conducted at a loss; that the plaintiff did not even have sufficient money to pay his month's rent due May 1st., 1923, for said premises, and that this Defendant loaned to the plaintiff the money with which to pay said rent.

3. Defendant admits he had no expert knowledge of auto repairs, and could only drive an automobile; he absolutely denies all the allegations as to the formation of a partnership and the contribution of each partner as alleged in the third paragraph of the Bill of Complaint; he denies that any agreement was made as to a valuation of \$850.00 for the plaintiff's business; that the entire equipment which the plaintiff owned at that time was not worth in excess of Two hundred Dollars. He admits that the three automobiles were purchased as stated, except that the price of the Pierce Arrow Car was \$400.00 and not \$500.00 as stated, but avers that all the monies paid for these three automobiles were paid by this defendant and the plaintiff did not contribute one cent toward the purchase of the same. He admits the execution of the notes as stated in said Bill and that the titles thereto were placed in their joint names, but not for the purposes of a partnership, but for the reasons hereinafter stated. He denies that the notes due in June were met out of the proceeds of any partnership funds, but to the contrary, he avers and states, that at that time, only \$40.00 had been earned from the operation and hiring of these cars, and the balance of \$150.00 due on the notes in June was paid entirely by this defendant, as hereinafter more particularly set forth.

4. He denies all the allegations of the fourth paragraph of the Bill of Complaint.

5. He denies all the allegations of the fifth paragraph of the Bill of Complaint.

6. He denies the allegations of the sixth paragraph of the Bill of Complaint, as no partnership had yet been formed as hereinafter set forth; he avers there are no creditors of any partnership, and no assets to be diminished or for distribution.

7. He denies all the allegations of the seventh, eighth and ninth paragraphs of said Bill of Complaint.

Further answering said Bill of Complaint, this

defendant avers and states that the true facts with reference to his business relations with the plaintiff are as follows:-

1. That on or about May 1st., 1923, the plaintiff was conducting at 606 W. Lafayette Avenue for himself, the business of repairing automobiles; that this defendant loaned him the money to pay his rent due May 1st., 1923, as he did not have the same; that his business was unsuccessful and not prosperous; that as the plaintiff and defendant are brothers-in-law, the former requested and the latter agreed to assist the former; that about the middle of May, it was suggested by the plaintiff that they undertake to go into business of hiring automobiles for funerals, weddings and commencements; that thereupon this defendant purchased the automobiles referred to in the Bill of Complaint, with the distinct understanding that the plaintiff was to make repairs to them as needed and that if at the end of a period of one year from May 16th., 1923, the operations of hiring were financially successful, then and at that time, the defendant was to take the plaintiff in as a partner; that the operations for the first month only netted the sum of \$40.00, and that this defendant paid out of his funds the sum of \$190.00 due about the middle of June on the automobiles purchased by him, but that the plaintiff had no financial interest in said automobiles, although at the plaintiff's suggestion the title to the cars were put in their joint names only for the purpose of giving the business some outward substantial appearance and because the cars were being kept at the plaintiff's place of business.
2. That on June 27th., 1923, the plaintiff took one of the Cadillac Cars, ~~for~~ for hiring purposes, but on a joy ride to Washington with 8 or 9 people in it and in broad daylight ran into a standing milk truck near Hyattsville, Md, wrecking the car and causing a damage of about \$700.00.
3. That prior to that occasion, a fire broke out in the garage destroying about \$300.00 worth of tires, all of which had been purchased by this defendant alone and toward which purchase the plaintiff paid or contributed nothing.
4. That the Plaintiff both prior to the collision above referred to and subsequent to July 1st., 1923, collected large sums of money for the hiring of these cars and did not account for the same to this defendant.
5. That on July 1st., 1923, the Plaintiff ordered this defendant to remove his cars from the garage and told him that if he did not do so, something was going to happen to them and that in pursuance of the Plaintiff's order, direction and threat of harm, he did remove the cars from 606 W. Lafayette Ave and retained them in his possession as he had a right to do.
6. That said Plaintiff is in complete possession of the garage and all the tools and equipment therein, and is and has been conducting his business therein as heretofore.
7. That said Plaintiff never contributed one cent toward the purchase of said automobiles or their upkeep, such as purchase of tires, gasoline, oils and necessary purchases.
8. That since the happening of the above events, all of said automobiles have been repossessed by those from whom they were purchased, for failure to pay the notes due thereon in July, 1923, according to the terms of the purchase of the same.
9. That the allegations of the sixth and eighth paragraphs of

BERKSHIRE
said Bill of Complaint are in direct contradiction, although said Bill is under oath, the one paragraph alleging full ability to pay all debts and the other alleging insolvency; that in point of fact there are no creditors to whom monies are due other than those from whom the cars were purchased, and they have repossessed them.

10. That the Complainant is not coming into this Court with clean hands, or doing equity in seeking the intervention of this Court; that the Complainant has no rights requiring the protection of this Court.

And having fully answered, he prays that said Bill of Complaint may be dismissed with costs.

Samuel B. Jay

Hilton D. Greenbaum
Sol. for Defendant.

State of Maryland, City of Baltimore, to wit:-
I hereby certify that on this 1st, day of August, 1923, before me a Notary Public of the State of Maryland, in and for the City aforesaid, personally appeared Carroll Day and made oath in due form of law that the matters and facts stated in the foregoing Answer are true to the best of his knowledge, information and belief.

Witness my hand and notarial seal.

George A. Coetter
Notary Public.

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