

IN THE COURT OF COMMON PLEAS 5
PHILADELPHIA COUNTY, PENNSYLVANIA

A. B. MOBLEY, AS SUPERINTENDENT OF BANKS)
FOR THE STATE OF GEORGIA, IN POSSESSION)
OF THE ASSETS AND BUSINESS OF CITIZENS-)
FLOYDBANK & TRUST COMPANY, A CORPORATION)
OF ROME, GEORGIA; and CITIZENS-FLOYD BANK)
AND TRUST COMPANY, A CORPORATION OF ROME,)
GEORGIA,)

NUMBER 763

PLAINTIFFS)

VS)

JUNE TERM, 1931

FEDERAL RESERVE BANK OF PHILADELPHIA,)
A CORPORATION,)

DEFENDANT,)

STATEMENT OF CLAIM

A. B. Mobley, as Superintendent of Banks for the State of Georgia, in possession of the assets and business of Citizens-Floyd Bank and Trust Company, a banking corporation under the laws of Georgia, and said Citizens-Floyd Bank and Trust Company, being the plaintiffs above named, bring this action against the Federal Reserve Bank of Philadelphia, a corporation under the laws of the United States, being the defendant above named, to recover damages in the sum of \$250,000.00, which sum is justly due and payable by Defendant upon a cause of action whereof the following is a statement:

- 1 -

At the times and upon the occasions hereinafter referred to plaintiff Bank was and now is a banking corporation existing and organized under the laws of the State of Georgia, with its principal office and place of business in the City of Rome, in the State of Georgia.

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Defendant now is and at all times hereinafter mentioned was a corporation existing and organized under and by virtue of the laws of the United States, more particularly under the terms and provisions of the Act of Congress, approved December 23rd, 1913, and as hereafter amended, to which Act and Amendment thereto reference is hereby duly made, said Act of Congress being generally known as the Federal Reserve Act, and said Defendant has and has had its principal office and chief place of business in the City of Philadelphia, in the State of Pennsylvania, and is subject to the jurisdiction of this Honorable Court.

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On and prior to November 13th, 1930, A. B. Mobley was and he now is the Superintendent of Banks for the State of Georgia, and as such is the chief officer of the Department of Banking, created under and by virtue of the terms of an Act of the Legislature approved August 16th, 1919; amended by an Act approved August 21st, 1922, and again amended by an Act approved August 26th, 1925. The Act is voluminous, but reference is hereby duly made thereto, as may be material, necessary or proper. It is codified in sections 2262(a) to 2282(a), inclusive, in Volume 8, 1922 Supplement, and Volume 12, 1926 Supplement, of Park's Annotated Code of Georgia.

The most pertinent parts thereof are set forth and made a part hereof, as Exhibit A hereto.

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On or about November 13th, 1930, such Superintendent of Banks, said A. B. Mobley, took possession of the assets of said plaintiff Bank,

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and since said date has, as such official, liquidated all of its assignable assets, not including in said liquidation, however, this cause of action.

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Plaintiff Bank under its charter conducted a commercial banking business at Rome, Georgia, continuously from January, 1924, until November 13th, 1930.

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During the month of June, 1930, Harper Manufacturing Company, Consolidated Grocery Company, Purity Ice Cream Company, Inc. and J. P. Reid, all of Rome, Georgia, were, with many others, depositors in and each had a checking account with plaintiff Bank, and respectively were entitled to draw and issue checks against their respective deposits for the payment of money on presentation and demand.

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On or about June 4th, 1930, said Harper Manufacturing Company, having then and there a checking account as aforesaid, with sufficient balance to its credit, drew against said account its check number 2641, dated June 4th, 1930, in the sum of \$15.40, payable to the order of J. E. Rhoads and Sons, and issued and delivered said check to said payee, then and now a resident of Philadelphia, Pennsylvania, with the purpose and intention that said check be presented by said payee in regular course to Plaintiff Bank, as the drawee therein, for payment.

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Said check was deposited by the said payee with the Central

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National Bank of Philadelphia on or about June 7th, 1930, and was by said bank in turn endorsed and transmitted to the Defendant for collection. Whereupon the Defendant, without cause and contrary to the truth, attached a slip of paper to the face of said check bearing the words "Bank Reported Closed" and returned said check as a worthless and uncollectible item to the said Central National Bank. A true and correct copy of said check, including all endorsements on the back thereof, is hereunto annexed, made a part hereof and marked "Exhibit 1". The slip of paper attached to said check, above referred to, was in form the same as "Exhibit 3" hereinafter referred to, save and except the date and amount.

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By said quoted words so attached to said check Defendant meant by the word "Bank" the said Citizens-Floyd Bank and Trust Company. By the word "Closed" Defendant meant and in effect said that said Plaintiff Bank was not open for business and was no longer engaged in business but had closed its doors, failed financially and had ceased to function as a bank and that said check was, therefore, worthless and could not be paid on presentation and demand.

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Said check with the said words so attached, as aforesaid, in due course of business was returned as worthless and uncollectible by said Defendant to its said correspondent bank, and in due course and in accordance with the intent, purpose and object of the Defendant was by its said correspondent returned to said Rhoads and Sons, and in due course and in accordance with the intent, purpose and object

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of said Defendant, was by said Rhoads and Sons returned to said Harper Manufacturing Company, the maker thereof, as a worthless check, and was received (so dishonored) by the officers and employees thereof. And moreover, in accordance with the intent, purpose and object of the said Defendant, the said false information and statement so stamped on and attached to said check was by the officers and employees of said Harper Manufacturing Company given and published to other persons who were then and there depositors and customers of said Plaintiff Bank.

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By reference to the endorsements on the said check of Harper Manufacturing Company, it appears that said check was redeposited by the said payee on or about June 24th, 1930, and on or about said date again came into the hands of the Defendant from the said Central National Bank of Philadelphia and was again returned by the Defendant as a worthless and uncollectible item, with the notation, in substance and effect, that the Plaintiff Bank, the drawee in said check, was reported closed and again the said libelous statement was published through various channels hereinbefore outlined. Further reference to the said check shows that it was finally handled through banking channels, other than the Defendant, was presented to the Plaintiff Bank for payment and was paid on or about August 20th, 1930.

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On or about June 9th, 1930, Consolidated Grocery Company of Rome, having then and there a checking account, as aforesaid, with sufficient balance to its credit, drew against said account its check number 891, dated June 9th, 1930, in the sum of \$67.83, payable to the

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order of Campbell Soup Company of Camden, New Jersey, and issued and delivered said check to said payee with the purpose and intention that said check be presented by said payee in regular course to Plaintiff Bank, as the drawee therein, for payment.

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Said check was deposited by said payee with the First Camden National Bank and Trust Company, of Camden, New Jersey, on or about June 11th, 1930, and was by said Bank in turn endorsed and transmitted to the Defendant for collection. Defendant, without cause and contrary to the truth, attached a slip of paper to the face of said check bearing the words "Bank Reported Closed", and returned said check as a worthless and uncollectible item to the said First Camden National Bank and Trust Company. A true and correct photostatic copy of said check, including all endorsements on the bank thereof, is hereunto annexed and made a part hereof and marked "Exhibit 2". A true and correct copy of said slip of paper which was attached to the face of said check and bearing the words "Bank Reported Closed" is, also, hereunto annexed and made a part hereof and marked "Exhibit 3".

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By said quoted words so attached to said check Defendant meant by the word "Bank" said Citizens-Floyd Bank and Trust Company. By the word "Closed" Defendant meant and in effect said that said Plaintiff Bank was not open and was no longer engaged in business, but had closed its doors, failed financially and had ceased to function as a bank, and that said check was, therefore, worthless and could not be paid on presentation and demand.

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Said check, with the said words so attached as aforesaid, in due course of business was returned as worthless and uncollectible by the Defendant to its said correspondent, and in due course and in accordance with the intent, purpose and object of the Defendant was by its said correspondent returned to said Campbell Soup Company, and in due course and in accordance with the intent, purpose and object of the defendant was by said Campbell Soup Company returned to said Consolidated Grocery Company, the maker thereof, as a worthless check and was received (so dishonored) by the officers and employees thereof. And moreover in accordance with the intent, purpose and object of the said Defendant, the said false information and statement so stamped on or attached to said check was by the officers and employees of said Consolidated Grocery Company given and published to other persons who then and there were depositors and customers of the Plaintiff Bank.

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By reference to the endorsements on the back of said check it will appear that same was redeposited by the payee thereof and reendorsed to the defendant on or about June 27th, 1930, when the said check was again returned as worthless and uncollectible. By further reference to the said endorsements it will appear that thereafter and through other banking channels said check was duly presented to Plaintiff Bank and paid on or about July 3rd, 1930.

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On or about June 14th, 1930, Purity Ice Cream Company, Inc., having then and there a checking account as aforesaid, with

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sufficient balance to its credit, drew against said account its check number 7582, dated June 14th, 1930, in the sum of \$119.42, payable to the order of Refrigeration Discount Corp., of Detroit, Michigan, and issued and delivered said check to said payee with the purpose and intention that said check be presented by said payee in regular course to Plaintiff Bank, as the drawee, for payment.

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Said check was deposited by said payee with the Peoples-Wayne County Bank of Detroit, Michigan, by whom the check was forwarded through regular banking channels to the First National Bank, Philadelphia, Pennsylvania, which last named bank endorsed and transmitted said check to the Defendant for collection, on or about June 20th, 1930. Defendant, without cause and contrary to the truth, attached a slip of paper to the face of said check, bearing the words "Bank Reported Closed" and there was stamped with a rubber stamp on the back of the said check the same words, and returned said check as a worthless and uncollectible item to the said First National Bank of Philadelphia. A true and correct photostatic copy of said check, including all endorsements on the back thereof, is hereunto annexed, made a part hereof, and marked "Exhibit 4". The slip of paper attached to the face of said check is of the same form, tenor and effect as shown in "Exhibit 3", excepting only the date, number and amount.

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By said quoted words so attached to said check Defendant meant by the word "Bank" said Citizens-Floyd Bank and Trust Company. By the word "Closed" Defendant meant and in effect said that said

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Plaintiff Bank was not open and was no longer engaged in business, but had closed its doors, failed financially and had ceased to function as a bank and that said check was, therefore, worthless and could not be paid on presentation and demand.

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Said check with the words so attached, as well as stamped on the back thereof, as aforesaid, in due course of business was returned as worthless and uncollectible by the Defendant to its said correspondent bank and in due course and in accordance with the intent, purpose and object of the Defendant was by its said correspondent returned, through the banking channels indicated by the endorsements on the said check, to the said Refrigeration Discount Corp., and in due course and in accordance with the intent, purpose and object of said Defendant was by the said Refrigeration Discount Corp., returned to said Purity Ice Cream Company, the maker thereof, as a worthless check and was received (so dishonored) by the officers and employees thereof. And moreover in accordance with the intent, purpose and object of the defendant the said false information and statement so stamped on and attached to said check was by the officers and employees of the said Purity Ice Cream Company, Inc., given and published to other persons who then and there were depositors and customers of Plaintiff Bank.

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By reference to the endorsements on the back of said check it will appear that same was thereafter presented to Plaintiff Bank for payment through other channels and was paid on July 3rd, 1930.

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On or about June 23rd, 1930, J. P. Reid, of Rome, Georgia, having then and there a checking account as aforesaid, with sufficient balance to its credit, drew against said account his check number 415 dated June 23rd, 1930, in the sum of \$25.48, payable to the order of Frank H. Fler Corp. of Philadelphia, Pennsylvania, and issued and delivered said check to said payee with the purpose and intention that said check be presented by said payee in regular course to Plaintiff Bank, as the drawee therein, for payment.

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Said check was deposited by said payee with the Northwestern National Bank of Philadelphia, on or about June 27th, 1930, and was by said bank in turn endorsed and transmitted on said date to the Defendant for collection. Defendant, without cause and contrary to the truth, attached a slip of paper to the face of said check, bearing the words "Bank Reported Closed" and returned said check as a worthless and uncollectible item to the said Northwestern National Bank. A true and correct photostatic copy of said check, including all endorsements on the back thereof is hereto annexed, made a part hereof and marked "Exhibit 5". The slip of paper thereto attached by the Defendant is of the same form, tenor and effect, as shown in "Exhibit 3", excepting the number, date and amount.

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By said quoted words so attached to said check, Defendant meant by the word "Bank" said Citizens-Floyd Bank and Trust Company. By the word "Closed" Defendant meant and in effect said that said

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Plaintiff Bank was not open and was no longer engaged in business, but had closed its doors, failed financially and had ceased to function as a bank and that said check was, therefore, worthless and could not be paid on presentation and demand.

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Said check with the words so attached as aforesaid, in due course of business was returned as worthless and uncollectible by the defendant to its said correspondent bank and in due course and in accordance with the intent, purpose and object of said Defendant was by its said correspondent returned to said Frank H. Fler Corpn., and in due course and in accordance with the intent, purpose and object of the Defendant was by said Frank H. Fler Corpn. returned to said J. P. Reid, the maker thereof, as a worthless check and was received (so dishonored) by the said maker and his employees. And moreover in accordance with the intent, purpose and object of the said Defendant, the said false information and statement so stamped on and attached to said check was by the said maker and his employees given and published to other persons, who were then and there depositors and customers of the Plaintiff Bank.

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By reference to the endorsements appearing on said check, it will appear that thereafter same was presented through other channels to Plaintiff Bank and was on July 10th, 1930, duly paid.

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By the said words "Bank Reported Closed" so stamped and/or attached, as aforesaid, to each and all of the above described four (4)

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checks drawn by the said various depositors on Plaintiff Bank, Defendant meant and intended to convey, and by all persons Defendant was understood to mean and to state the Plaintiff Bank was not functioning but had failed financially, and was not open for banking business, that it was not financially capable of honoring said checks or either of them or any check drawn on it were same to be duly presented for payment, and further that Plaintiff Bank was in an unsound and insolvent condition financially and said meaning and each and all of them was the one had and understood from said published words by all persons into whose hands each of the said four dishonored checks came or passed.

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In truth and in fact Plaintiff Bank on the dates of each of said four checks and prior thereto and subsequent thereto was open for business, was performing its functions as a bank, was solvent and would have honored each and all of said four checks on presentation and was in a sound financial condition and, as stated, each and all of said checks were honored and paid when finally presented to plaintiff Bank for payment.

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The aforesaid libels consisting of the words "Bank Reported Closed", attached to or stamped on each of the aforesaid four checks and the publishing of the said several libels by the returning of each of the said checks, as aforesaid, through banking channels, were each and all done and published by said defendant wilfully, maliciously and without due care in the premises and in a reckless disregard for

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the truth and with reckless disregard for the business, character and reputation and credit of plaintiff Bank.

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Each and all of the aforesaid published libels related to the business of plaintiff Bank as a bank, and negating as they did its character and reputation as an active and solvent commercial bank, had the effect of destroying the confidence of the public in plaintiff Bank, and drove away its customers, and destroyed its credit with other banks and business institutions, and made it difficult to obtain credit.

The capital stock of plaintiff is \$100,000.00. Rome has about 13,000 inhabitants, and there are two other banks in said City. Being an agricultural territory bank deposits usually showed an increase in the Fall when crops are harvested and debts paid.

From its organization until June, 1930, plaintiff Bank had the confidence of the public, did a profitable business, and earned and paid its stockholders regular dividends of 7% per annum, paying for 1929 an 8% dividend.

On or about June 1st, 1930, plaintiff Bank was in a normal and sound financial condition for that Season, and had no reason to anticipate any financial difficulties. In fact plaintiff Bank had, as of May 1st, 1930, withdrawn from what is known as the Par List, promulgated by the Federal Reserve System, which includes the defendant, whereby plaintiff Bank reasonably expected to increase its earnings by thereafter collecting exchange charges which it had not enjoyed when its name appeared on said Par List. The effect of

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entering a bank's name on said Par List was to agree to remit to any and all banks, including Federal Reserve Banks, and the Defendant, the full face amount of any and all checks drawn on such bank, without any charge or deduction (known as exchange) for the service involved in such remittance.

On or about June 1st, 1930, plaintiff Bank had a surplus and undivided profits of approximately \$26,800.00; general deposits of approximately \$290,000.00; and savings deposits of approximately \$103,000.00.

By virtue of the several libels herein complained of, following each other successively and persistently, and widely published in Rome, the confidence of the public in said community in plaintiff Bank and its solvency was so severely shaken, if not actually destroyed, as that a slow and quiet "run" was caused to begin on plaintiff Bank; that is to say, many of its depositors, hearing of said checks being dishonored and returned by the Defendant, with the statement that plaintiff Bank was reported closed, became uneasy and accordingly began to withdraw their deposits in whole or substantial part.

Therefore, beginning in June 1930, on the publication by the defendant of the aforesaid false and libelous reports, the deposits in plaintiff Bank began to steadily shrink, until on or November 13, 1930, the general deposits had been reduced to approximately \$175,000.00, or approximately a reduction of 40% since June 1st, 1930; and the savings deposits had been reduced to approximately \$84,000.00, or approximately a reduction of 20% since June 1st, 1930.

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Such substantial shrinkages in deposits over said short period of time, and when normally an increase of deposits would be expected, constituted a heavy drain upon the resources of Plaintiff Bank. It was forced to curtail its loans, and its credit being injuriously affected by the said libels, it was inevitably forced into liquidation to avoid a ruinous sacrifice of its property and assets.

Whereupon the said Superintendent of Banks took possession of plaintiff Bank, as hereinbefore stated, for the purpose of its liquidation. Such enforced liquidation necessarily brought about a shrinkage or loss in value of its assets, so much so that under the provisions of the said Banking Act of Georgia, the said Superintendent of Banks levied an assessment of 100% on the stockholders of plaintiff Bank for the purpose of paying its depositors.

By virtue of the facts herein outlined, it is charged therefore that the closing and failure of plaintiff Bank, was the natural, direct and proximate result of the aforesaid false and libelous publications of the Defendant of and touching the business character, reputation and credit of plaintiff Bank.

Such failure of plaintiff Bank, and the consequent enforced liquidation of its assets immediately and directly entailed the loss of its capital of \$100,000, its surplus and undivided profits of approximately \$25,000.00, and a shrinkage, and loss in the value of its assets of approximately \$100,000.00, besides loss of profits.

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Plaintiff Bank was a comparatively small State bank located in a small City, distant some 800 miles from Philadelphia. On the other hand, defendant is a powerful unit in the great Federal Reserve System, with the backing of all the tremendous financial resources, power and prestige of that system. Defendant enjoys the services of the best banking talent that money can provide, and has at all times available to it, full, complete, and accurate information as to the status and condition of every bank in the United States, both State and National.

The Defendant as a unit in the Federal Reserve System, desires and undertakes to handle a very large volume of the business of clearing and collecting bank checks, and has or should have adequate and proper facilities for such work.

The Defendant well knows that the business of banking depends for its successful operation on the public confidence, without which no bank can continue in existence however sound and honest may be its management.

The Defendant well knows how easily, and by what trivial circumstances, such public confidence can be destroyed, and particularly the Defendant knew the troubled and unstable state of the public confidence in banks generally in the Summer of 1930.

The Defendant is or may be in constant and almost instantaneous communication with all of its sister Reserve Banks, including the Federal Reserve Bank of Atlanta, located about seventy miles from Rome, Georgia.

However, the Defendant, with all its resources, both

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physical and financial, its sources of information, and its facilities for handling its business properly and with due regard for the rights of others, however small and insignificant they may be, secured false information as to the financial and business status of Plaintiff, and without taking the simple and easy steps necessary to verify or correct such false information, repeatedly and persistently spread through various and widely scattered banking and business channels the false and fatal report that Plaintiff Bank was "Closed".

Such conduct, it is charged, amounts to such a reckless and negligent disregard for the facts, and the rights of others as to be sufficient to imply actual malice and are such aggravating circumstances as to justify the imposition and recovery of punitive damages in such sum as may be awarded by the jury.

For the recovery of the damages hereinbefore set forth due to the libels and libelous acts of Defendant hereinbefore named, plaintiff Bank brings this action to recover the sum of \$250,000.00. Hence this suit.

(Sgd) Paul Freeman

Alexander W. Smith, Jr.

Attorneys for Plaintiff