

CARR-WHITE TRUCK CO., INC.,
A Corporation,

Plaintiff,

VS.

JOHN J. MILLER,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW.

C O M P L A I N T

The Plaintiff claims of the Defendant the sum of ONE HUNDRED EIGHTY AND NO/100 (\$180.00) DOLLARS due by promissory note made by him on, to-wit, the 11th day of May, 1961, and payable in monthly installments of TWENTY AND NO/100 (\$20.00) DOLLARS, PAYABLE on the 20th day of each month, beginning 20th day of June, 1961; and the Plaintiff avers that in the said note and as part of the consideration thereof, the Defendant has expressly waived his rights to claim personal property as exempt to him under the Constitution and laws of the State of Alabama and agreed to pay an attorney's fee for the collection thereof and the Plaintiff hereby claims the further sum of THIRTY-SIX AND NO/100 (\$36.00) DOLLARS as such attorney's fee.


E. G. RICKABY, Attorney for Plaintiff.

Sheriff claims 84 miles at
Ten Cents per mile Total \$ 8.40
TAYLOR WILKINS, Sheriff
BY C. C.
DEPUTY SHERIFF

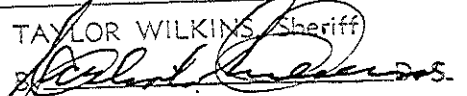
FILED

AUG 10 1962

ALICE J. DUCK, CLERK
REGISTERS

Defendant's Address is:
Elberta, Alabama

Received 10 day of Aug 1962
and on 28 day of Aug 1962
I received a copy of the within J. J. C.
on John J. Miller
By service on _____

TAYLOR WILKINS, Sheriff

Elberta

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. _____

TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon JOHN J. MILLER

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 JOHN J. MILLER

_____, Defendant.....

by CARR-WHITE TRUCK CO., INC., A Corporation,

_____, Plaintiff.....

Witness my hand this 10 day of August 1942

Alice J. Duck Clerk

No. 5237

Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

GARR-WHITE TRUCK CO., INC.,
A Corporation,

Plaintiffs

vs.

JOHN J. MILLER,

Defendants

SUMMONS and COMPLAINT

Filed

FILED

, 19____

MAE 10

19____

, Clerk

ALICE J. DUCK,

CLERK
REGISTER

E. G. RICKARBY

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

~~Elberta, Alabama~~
RECEIVED IN OFFICE

, 19____

, Sheriff

I have executed this summons

this _____, 19____

by leaving a copy with

Sheriff

Deputy Sheriff

CARR-WHITE TRUCK CO., INC.,
a Corporation

Plaintiff

VS.

JOHN J. MILLER,

Defendant

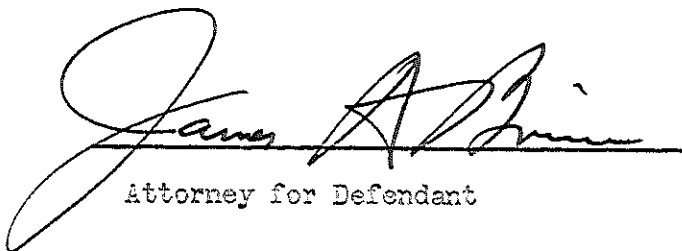
IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW, NO: 5237

DEMAND FOR TRIAL BY JURY

Comes now the defendant in the above-styled cause and demands
TRIAL BY JURY.


Attorney for Defendant

FILED
SEP 10 1962
ALICE I. DUCK, CLERK
REGISTER

CARR-WHITE TRUCK COMPANY, INC.
a corporation

PLAINTIFF

VS

JOHN J. MILLER

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW, NO. 5237

ANSWER

Now comes the Defendant in the above styled cause and for further answer to the complaint heretofore filed, interposes the following plea:

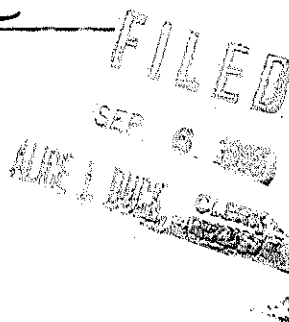
VII

The note has been paid in full.


Attorney for Defendant

I certify that a copy of this answer has been mailed, postage paid, to E. G. Rickarby, Attorney for Plaintiff, this 5th day of September 1963.


Attorney for Defendant



CARR-WHITE TRUCK COMPANY, INC.,
a corporation,

PLAINTIFF

VS

JOHN J. MILLER

DEFENDANT

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW, NO. 5237

ANSWER

Comes now the defendant in the above styled cause and for answer to the complaint heretofore filed, interposes the following separate and several pleas thereto:

One

Not guilty.

Two

The material allegations thereof are not true.

Three

That there was no consideration for the note made a basis of this suit.

Four

That the defendant is not indebted to the plaintiff.

Five

The defendant, pleading specially, claims of the plaintiff One Hundred Sixty (\$160.00) Dollars, damages for breach of warranty in the sale of one (1) automobile air conditioner, for part payment of which the note made a basis of this suit was executed and the sale made, on to-wit: the 11th day of May 1961, which automobile air conditioner the plaintiff warranted to be in good operating condition, and to be properly installed by plaintiff in defendant's automobile, fit for use by defendant in cooling the air in the interior of said automobile, when in fact said automobile air conditioner was not properly installed by plaintiff; that said air conditioner leaked water, and caused defendant's automobile engine to overheat when in use.

SIX

The defendant, pleading specially, claims of the plaintiff One Hundred Sixty (\$160.00) Dollars, damages, for that on May 11, 1961, the plaintiff and defendant were "seller" and "buyer"

respectively, as defined by Title 57, Section 1, Code of Alabama, 1940; that Title 57, Section 75 of said Code of Alabama, provides in part as follows:

"(1) Where there is a breach of warranty by the seller, the buyer may at his election: (d) rescind the contract to sell or the sale and refuse to receive the goods, or if the goods have already been received, return them or offer to return them to the seller and recover the price or any part thereof which has been paid. (4) Where the buyer is entitled to rescind the sale and elects to do so, if the buyer shall cease to be liable for the price upon return or offering to return the goods. If the price or any part thereof had already been paid, the seller shall be liable to repay so much thereof as has been paid, concurrently with the return of the goods, or immediately after an offer to return the goods in exchange for the repayment of the price. (and:) *** if the deterioration injury of the goods is due to the breach of warranty, such deterioration or injury shall not prevent the buyer from returning or offering to return the goods to the seller and rescinding the sale"

Defendant avers that after the sale and installation of said automobile air conditioner by the plaintiff, and after plaintiff had failed to correct the defects in the installation and operating efficiency of said air conditioner, defendant offered on several occasions to return the said air conditioner, and that on the date of his last offer to return said air conditioner he delivered same to plaintiff's place of business in Mobile, Alabama, but plaintiff refused to accept the return of said air conditioner on the ground that one bolt was broken in the motor of said air conditioner; that the part of the purchase price paid by the defendant to the plaintiff is the aforesaid sum of One Hundred Sixty (\$160.00) Dollars which defendant now claims in recovery from plaintiff for breach of warranty as aforesaid.


Attorney for Defendant

I certify that a copy of this answer has been mailed, postage paid, to E. G. Rickarby, Attorney for Plaintiff, this 8th day of March 1963.


Attorney for Defendant

FILED

MAR 11 1963

ALICE I. DICK, CLERK
REGISTER

163

E. G. RICKARBY

392 FAIRHOPE AVENUE

FAIRHOPE, ALABAMA

August 7, 1962

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

Dear Mrs. Duck:

Inre: Carr-White Truck Co., Inc.
Vs: John J. Miller
Our File: 5800

With this we are handing you Summons and Complaint
on promissory note in the above styled cause.

Please process, and oblige. We are not inclosing
costs as the Plaintiff is an Alabama corporation.

Yours very truly,



EGR/ts

Encl.

cc: Carr-White Truck Co.