

W. J. ELDERING & SON N.V.,
a corporation,

Plaintiff,

-vs-

JOHN G. EVANS, Individually
and doing business as JOHN
G. EVANS FARMS,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.


CASE #4985

AMENDED COMPLAINT

Comes the Plaintiff in the above styled cause and amends
the original Bill of Complaint heretofore filed by adding
Count IV:

COUNT IV

The Plaintiff claims of the Defendant the sum of TWO
THOUSAND EIGHT HUNDRED SEVENTY FIVE DOLLARS (\$2,875.00) damages
for breach of agreement entered into by him on the 2nd day of
January, 1961, as shown by attached Exhibit "A" showing the
print side or face of the order, and Exhibit "B" showing the
terms and conditions of said order printed on the backside of
thereof; and the Plaintiff says that, although Plaintiff has
complied with all its provisions on Plaintiff's part, the
Defendant has failed to comply with the following provision
thereof, viz., Defendant has failed to pay the balance of
TWO THOUSAND EIGHT HUNDRED SEVENTY FIVE DOLLARS (\$2,875.00)
due under said agreement.


E. G. Rickarby, Attorney for Plaintiff

Filed
May 15, 1962

SUMMONS AND COMPLAINT

Baldwin Times

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 4985

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon JOHN G. EVANS

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 G. EVANS,
Individually and doing business as JOHN G. EVANS FARMS, Defendant
by W. J. ELDERING & SON N.V., a corporation

Plaintiff

Witness my hand this 15 day of May 1962

Alice J. Luck, Clerk

No.

4985

Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

W. J. ELDERING & SON N.V.,
a corporation,

Plaintiffs

vs.

JOHN G. EVANS, Individually
and doing business as JOHN
G. EVANS FARMS

Defendants

SUMMONS and COMPLAINT

Filed _____, 19

_____, Clerk

E. G. Rickarby
Attorney at Law
P. O. Box 71
Fairhope, Alabama

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

JOHN G. EVANS FARMS
Foley, Alabama

RECEIVED IN OFFICE

, 19

, Sheriff

I have executed this summons

this _____, 19

by leaving a copy with

Sheriff

Deputy Sheriff

W. J. ELDERING & SON N. V.,
A Corporation,

Plaintiff,

vs.

JOHN G. EVANS, Individually
and doing business as JOHN
G. EVANS FARMS,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

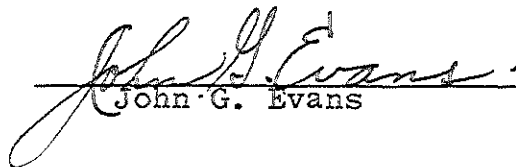
AT LAW

NO. 4985

AFFIDAVIT OF DENIAL

Before me, Norborne C. Stone, Jr., a Notary Public in and for Baldwin County, State of Alabama, personally appeared John G. Evans who is known to me and who, being by me first duly and legally sworn, did depose and say under oath as follows:

That he is informed and believes and upon such information and belief denies the correctness of the itemized, verified statement of account attached to the original Bill of Complaint in this cause; that he denies liability to the Plaintiff; and he disputes the whole account and each and every item or entry thereof.


John G. Evans

Sworn to and subscribed before me on
this the 7th day of November, 1962.


Notary Public, Baldwin County, Alabama

Filed Nov 7, 1962
10:11 AM
just

W. J. Eldering & Son, N.Y.,
a corporation,

vs.

John G. Evans, etc.

4985

Comes now the Defendant, by his attorneys, and amends
his plea heretofore filed in this cause by adding thereto the
following:

2. That the Plaintiff is a foreign corporation
which has not qualified to do business in the State
of Alabama and hence cannot maintain this suit.

CHASON & STONE

By: *Marion P. Stone*
Attorneys for Defendant

Filed

11-7-64

M. Stone

W. J. ELDERING & SON N. V.,
A Corporation,

Plaintiff,

vs.

JOHN G. EVANS, Individually
and doing business as JOHN
G. EVANS FARMS,

Defendant.

Y

Y

Y

Y

Y

Y

Y

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 4985

PLEA

Comes now the Defendant in the above styled cause, by his attorneys, and for answer to the Amended Complaint filed against him in this cause, and to each count thereof, separately and severally, pleads as follows:

1. The allegations of the Amended Complaint are untrue.

CHASON & STONE

By:


Attorneys for Defendant

Filed Nov 7, 1962
18M Hall
KMS

W. J. Eldering & Sons, NV
a corporation Plaintiff

John W. ... et al. Court V
Defendant

In the Circuit Court
of Baldwin County
Ala.
4985

The Plaintiff claims of the Defendant
the sum of "Two Thousand Eight Hundred
seventy-five and $\frac{no}{100}$ dollars damages
for breach of a contract entered into by them
as hereby ~~plaintiff~~ defendant ordered as shown
by copy of order hereto attached and made
a part hereof and marked Exhibit "A" &
"B" showing the terms of order and Plaintiff
shipped goods ordered ~~and~~ the on about the
2nd day of January, 1961, and the Plaintiff
says that, although Plaintiff has shipped
the order and complied with all its
provisions on Plaintiff's part, the
Defendant has failed to comply
with the following provision by failing to
pay the balance of \$2,875.00 due under
said a contract

Est. ...
Attorney for Plaintiff

Plaintiff asks leave to amend
the complaint by adding Court V. as
shown above -

Est. ...

Filed 11-7-62

10/11/62

183

W. J. ELDERING & SON N. V.,	X	
a Corporation,	X	
	X	IN THE CIRCUIT COURT OF
Plaintiff,	X	
vs.	X	BALDWIN COUNTY, ALABAMA
JOHN G. EVANS, Individually	X	
and doing business as JOHN	X	AT LAW
G. EVANS FARMS,	X	
Defendant.	X	

DEMURRER

Comes now the Defendant in the above styled cause, by his attorneys, and demurs to the complaint heretofore filed against him and to each count thereof, separately and severally, and assigns the following separate and several grounds in support thereof:

1. The complaint fails to state a cause of action.
2. It affirmatively appears from the allegations of the complaint that the Defendant would not be liable to the Plaintiff under an alleged order dated December 22, 1960, for interest on the amount of said alleged order from January 5, 1961.
3. The allegations of "COUNT III" of the complaint fail to allege that the Defendant order any bulbs from the Plaintiff.
4. The allegations of "COUNT III" of the complaint fail to allege that any bulbs were delivered by the Plaintiff to the Defendant.
5. For aught that appears from the allegations of "COUNT III" of the complaint the Plaintiff has never delivered any bulbs to the Defendant.
6. The allegations of "COUNT III" of the complaint fail to allege any contract for the sale and delivery by the Plaintiff to the Defendant of bulbs and a breach of that contract by the Defendant.

Respectfully submitted,

CHASON & STONE

FILED

JAN 25 1962

AUGIE I. DUCK, CLERK
REGISTER

By: 
Attorneys for Defendant

Refiled 1-7-62
10/11/62

W. J. ELDERING & SON N. V.,
A Corporation,

Plaintiff,

-VS-

JOHN G. EVANS, Individually
and doing business as JOHN
G. EVANS FARMS,

Defendant.

IN THE CIRCUIT COURT OF

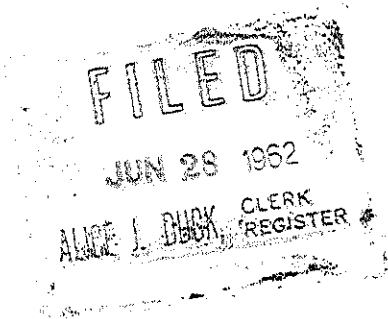
BALDWIN COUNTY, ALABAMA,

AT LAW.

Case Number 4985

AMENDED COMPLAINT

Comes the Plaintiff in the above styled cause and amends
his Complaint by striking Count III, to which a demurrer has
been sustained.





E. G. RICKARBY, Attorney
for Plaintiff.

Exhibit "A"

BULB-ORDER

No. 310

The undersigned John Evans flower farm

2 Jan. 1961 Toley als has bought from

W. J. ELDERING & SON N.V. - Sassenheim
(Holland)

upon the terms and conditions printed on the reverse side hereof, the following products.

50.000	Hopmans glory	14 2	13.25
50.000	Morning Kiss	2	18.50
50.000	Hoch Summer	2	15.50
50.000	Rose van Lima	2	13.25
50.000	Van Danten glory	2	16.-

As per Telephone

Terms: 1 July '61

dated: Dec. 22 '60

Buyer's signature

John Evans

SEE BACK

Exhibit "B"

TERMS OF SALE

1. Unless specifically otherwise agreed, all products are sold ex-seller's warehouse, Holland, and travel throughout at buyer's risk and expense.
2. If products are sold ex-seller's warehouse, the cost of cases and packing and of Netherlands phytopathological inspection, and of any freight, forwarding, insurance, export and import charges, shall be for buyer's account. These charges shall be due and payable on arrival of the goods at United States or Canadian port. Unless otherwise instructed, the seller will arrange for transportation and for ordinary insurance coverage to destination.
3. Payment shall be due ninety (90) days from date of invoice; two percent (2 %) discount will be allowed for payment within thirty (30) days from date of invoice.
4. The seller warrants the goods to be sound and healthy at time of shipment but does not otherwise warrant flowering- or other planting-, growing- or forcing results.
5. If at time of shipment, the buyer shall be in default in the payment of any account owing to any member of the Holland Bulb Exporters' Trade Sub-Group (Ondervakgroep „Export van Bloembollen“) or if the buyer's financial responsibility appears unsatisfactory to the seller, the seller may, at his option, cancel this order, in whole or in part, provided that he shall promptly advise the buyer of any such cancellation; and the seller shall not be responsible for any damages whatsoever arising from such cancellation.
6. Total or partial failure of the general or of seller's crop, owing to frost, floods, or other natural causes, or loss or damage to seller's stocks by fire or any other cause beyond his control, preventing seller from fully performing the present and/or similar contracts, shall relieve the seller from his obligations under the present contract to a corresponding extent.
7. Whenever the terms of this order call for delivery f.o.b. any place or conveyance in the United States or Canada, the seller shall be required only to arrange for transportation and insurance to the point specified and the seller may, at his election either prepay freight, insurance and/or other shipping charges, including import duty and arrange to collect same on delivery in a lump sum from the buyer OR the buyer shall pay all such charges from warehouse Holland until arrival at such agreed place or conveyance in the United States or Canada. In either case buyer shall be permitted to deduct the charges paid by him to such agreed f.o.b. United States or Canada place or conveyance from the agreed f.o.b. United States or Canada prices. Notwithstanding any agreement as to delivery at any point other than seller's warehouse, the goods shall in all cases be at buyer's risk from the time they leave the initial point of shipment.
8. All claims hereunder shall be deemed waived unless presented within eight (8) days after receipt of goods. Claims relating to damage to or condition of goods shall be accompanied by Lloyd's survey report or its equivalent, stating full particulars. In case of non arrival of goods at destination within a reasonable time after receiving advice of shipment from Holland, buyer shall notify the seller by telegraph.
9. Cancellation of this order or part thereof will only be accepted when buyer agrees to pay seller his loss of profit; changes in this order may be allowed only if both parties agree thereto.
10. These printed Terms of Sale cannot be altered nor departed from except by mutual consent in writing.