

R. A. FLOWERS

Plaintiff

vs

BORDEN'S DAIRY, a division
of THE BORDEN COMPANY

Defendant

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5297

-1-

The plaintiff claims of the defendant the sum of Nine Thousand Five Hundred Dollars (\$9,500.00) damages for the conversion by them on August 21, 1963, of the following personal property, to-wit:

A milk base of the gallonage of Fifty (50) gallons of milk per day, deliverable in Baldwin County, Alabama, to a tank truck of the said defendant for drayage by the said defendant to the Pensacola, Florida plant of the said defendant.

-2-

Plaintiff claims of the defendant the sum of Nine Thousand Five Hundred Dollars (\$9,500.00) for the conversion by the defendant of the following personal property, to-wit: a milk base of Fifty (50) gallons per day, deliverable in Baldwin County, Alabama, to a tank truck operated by the defendant for transportation of said milk to the Pensacola, Florida plant of the said defendant.

Plaintiff avers that said conversion by the said defendant of the milk base aforesaid was the denial by the said defendant of the plaintiff's right to sell said milk base for a valuable consideration as noted by the said defendant through its agent, servant, officer, or employee, on August 21, 1963, as set out in a letter from the said defendant's agent, servant or employee to said plaintiff's attorney.

THOMPSON & WHITE

BY:

Robert Thompson
Attorneys for plaintiff

FILED

OCT 31 1963

ALICE J. DUCK, CLERK
REGISTER

R. A. FLOWERS

Plaintiff

vs

BORDEN'S DAIRY, a
division of THE BORDEN COMPANY

Defendant

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO. _____

Comes the plaintiff in the above styled cause and propounds the following interrogatories to the defendant's agent, servant or employee, W. J. Barritt, Jr.:

(1) What is the defendant's correct name?

(2) If the defendant is a corporation, in what state was the defendant incorporated?

(3) Is the defendant qualified under the laws of Alabama to conduct business within the State of Alabama?

(4) If the defendant is a non-resident or Foreign corporation qualified to conduct business within the State of Alabama, state the name and address of all agents designated by defendant for service of court process.

(5) Did the defendant purchase milk from producers in Baldwin County, Alabama, during the months of June, July and August, 1963?

(6) Did the defendant transport milk from the dairy farms of producers in Baldwin County to defendant's plant in Pensacola, Florida, during and prior to the month of August, 1963?

(7) Did the following plaintiffs: Claude Creighton, R. A. Flowers, A. V. Campbell, W. J. Campbell and John DuBrock, individually, or through their attorney advise you that they wished to sell or transfer their milk bases with Borden's in accordance with the allocation as indicated under the Alabama-Florida compact in effect during the month of August, 1963.

(8) If your answer is "yes" to the foregoing interrogatory, did you authorize the sale or transfer of any of the following named milk bases, including that of the plaintiff herein: R. A. Flowers, Claude Creighton, A. V. Campbell, W. J. Campbell and John DuBrock?

(9) If your answer is "no" to the preceding interrogatory, did you advise the said plaintiff or plaintiffs and/or the attorney of such that the said bases could be transferred and outlined the procedure for said transfer or sale?

(10) If your answer is "no" to the authorization of sale and

transfer, then attach a copy of the letter or letters which you wrote to the plaintiff herein or his attorney, C. LeNoir Thompson in reply to a request for the transfer by your company of a sale of the milk base.

(11) Were you advised as an officer of Borden's, Inc., at Tampa, Florida, concerning the appearance of the said plaintiff herein at the office of Borden's, Inc., of Pensacola, Florida, and of a request personally and by attorney for the said plaintiff herein to Mr. Jay Strubel, an agent, servant or employee of the said Borden's, Inc., as to the required proceedings of Borden's, Inc., under which plaintiff's milk base could be sold or transferred?

(12) What instructions on the sale of milk base by Baldwin County, Alabama, producers, if any, did you issue to the said Jay Strubel or to Lamar Garrett, both being agents, servants or employees of Borden's, Inc., at Pensacola, Florida?

(13) Attach copies of instructions issued to either or both Jay Strubel and/or Lamar Garrett.

(14) Attach a copy of any letters written C. LeNoir Thompson, attorney for said plaintiff together with a copy of the letter or letters written to Borden's by said C. LeNoir Thompson, in his capacity as attorney for plaintiff.

THOMPSON & WHITE

BY:

C. LeNoir Thompson
Attorneys for plaintiff

STATE OF ALABAMA
BALDWIN COUNTY

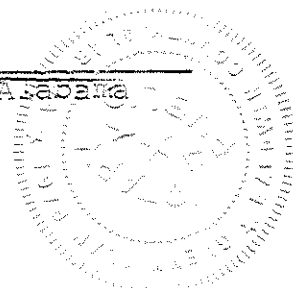
Before me, the undersigned Notary Public, in and for said State and County, personally appeared C. LeNoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such I am authorized to make this affidavit. I further state that the answer of the defendant to the foregoing interrogatories will, if truthfully made be material evidence for the plaintiff on the trial of said cause.

C. LeNoir Thompson
Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 3rd day of December, 1963.

Henry A. Page
Notary Public, Baldwin County, Alabama

FILED
DEC 3 1963
ALICE J. DICK, CLERK
REGISTER



R. A. FLOWERS

X

Plaintiff

X

IN THE CIRCUIT COURT OF

vs

X

BALDWIN COUNTY, ALABAMA

BORDEN'S DAIRY, a division
of the BORDEN COMPANY

X

AT LAW

NO. _____

Defendant

X

X

Comes the plaintiff in the above styled cause and propounds the following interrogatories to the defendant's agent, servant or employee, Lamar Garrett:

1. Are you Lamar Garrett?
2. Are you branch manager of the Pensacola plant?
3. How long have you been employed in that plant as manager?
4. Do you know R. A. Flowers, the plaintiff in this cause?
5. How long have you known the plaintiff?
6. Do you know whether or not he had a milk base with Borden's?
7. Was this milk base with the Borden Pensacola plant?
8. Did you keep the milk base for Borden's Dairy in Pensacola?
9. What was the amount of the plaintiff's milk base in December, 1960, July, 1961; July, 1962; and July, 1963?
10. When was the last time your company sent the amount of the milk base to the plaintiff?
11. State the amount of the base on that date and attach a copy of the form used to notify the producer.
12. Calculate the percentage of milk that the producer was entitled to furnish as a milk base under the Alabama-Florida compact during the months of July and August, 1963.
13. Is the percentage allotted the plaintiff herein under which Alabama-Florida milk compact as it existed during the month of August, 1963, a percentage of the milk which the Pensacola branch of the Borden Company sells in Alabama?
14. Do you have access to the records of the Borden Company showing the gallonage of milk purchased from the plaintiff at his address in Baldwin County, Alabama, for defendant, the Pensacola, Florida branch?
15. If your answer is "yes", state the gallonage purchased from the plaintiff for said Pensacola branch for each month during the twelve months preceding September, 1963.

16. State the milk base allotted by the said defendant to R. A. Flowers, plaintiff in this cause for the year September 1, 1962, to September 1, 1963.

17. State the name of any producer who was allotted since August 21, 1963, additional milk base.

18. State the amount of additional milk base allotted each producer getting an increase since August 21, 1963.

19. If your answer to interrogatory fourteen above is "no", state the name and address of the agent, servant, employee or official of the said defendant corporation who has access to the records of the said corporation.

20. State, if you know, the date when the Borden Company last changed the requirements for transferring milk bases.

21. State, if you know, what other milk bases or percentages of Alabama produced milk has Borden transferred from one Alabama producer to another Alabama producer since August 21, 1963.

22. Do you know W. J. Barritt, Jr.?

23. If your answer is "yes", what is his capacity with Borden's Dairy, a division of the Borden Company in Florida?

24. Was the Borden Company through its Pensacola branch purchasing or transporting milk from any milk producers in Alabama, which milk is hauled to the Pensacola branch of the said defendant corporation during the month of August, 1963?

25. If your answer is "yes", name the counties in Alabama in which milk producers are located whose milk is transported by the Borden Company or for use in the Borden Company's Pensacola branch plant.

26. If your answer to the preceding question is "yes", name the producers in Baldwin County, Alabama, from whom the Borden Company obtained milk in August 21, 1963.

27. Give the total gallonage of milk purchased from each Alabama producer during the months of June, July and August, 1963.

28. Were you notified when the Borden Company through the actions of one, W. J. Barritt, Jr., President of the Borden's Dairy in Florida, stated in writing that Borden's would not recognize any purported transfer of plaintiff's milk base by the Borden Company?

29. Is the Borden Company, defendant in this cause, purchasing or transporting milk from any milk producers in Alabama which milk is hauled to the Pensacola branch of the said defendant corporation?

30. If your answer is "yes", name these producers as they were on August 21, 1963, and give the gallonage of milk which was purchased from each producer during the preceding month.

31. Name the producers from which the said defendant is purchasing milk in Alabama for the defendant's Pensacola branch as of the 21st day of September, 1963, and give the gallonage purchased from each of said producers during that period.

32. Do you have a copy of the allotment breakdown of milk base by producers furnished to the State of Alabama Milk Control Board on or about May 13, 1963?

33. If your answer to the preceding question is "yes", attach a copy showing the percentage of Alabama milk designated as the producers' base for each of the Alabama producers.

34. Did W. J. Barritt, Jr., or anyone in authority in the Borden Company, give you any instructions concerning the transfer of Alabama milk base from a producer to a purchaser of such base during the year 1963?

35. If your answer to the preceding question is "yes", state the name or identification of the person instructing you on milk base transfers and attach a copy of the instructions if same are in writing.

THOMPSON & WHITE

BY

Attorneys for plaintiff

STATE OF ALABAMA

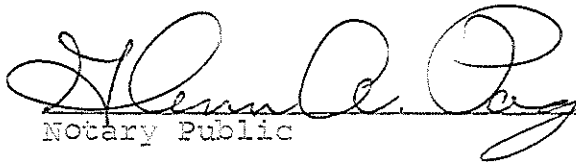
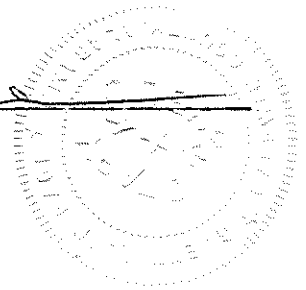
BALDWIN COUNTY

Before me, the undersigned Notary Public, in and for the State and County, personally appeared C. LeNoir Thompson, who being by me first duly sworn, deposes on oath and says as follows:

My name is C. LeNoir Thompson and I am one of the Attorneys of Record for the plaintiff in the above entitled cause, and as such, I am authorized to make this affidavit. I further state that the answer of the said witness to the foregoing interrogatories will, if truthfully made, be material evidence for the plaintiff on the trial of said cause.



Subscribed and sworn to before me by the said C. LeNoir Thompson on this the 3rd day of December, 1963.


Notary Public

FILED
DEC 3 1963
ALICE L. DUCK, CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 5797

----- TERM, 19-----

TO ANY SHERIFF OF THE STATE OF ALABAMA

You Are Commanded to Summon BORDEN'S DAIRY, a division of THE BORDEN
COMPANY

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 BORDEN'S DAIRY,
a division of THE BORDEN COMPANY Defendant-----

by R. A. FLOWERS-----, Plaintiff-----

Witness my hand this 31 day of Oct 1963
Alice J. Weak-----, Clerk

No. 5797

Page _____

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

R. A. FLOWERS

Plaintiffs

vs.

BORDEN'S DAIRY, a division of
THE BORDEN COMPANY

Defendants

1. Summons and Complaint
2. Interrogatories

Filed Oct 31 1962

Clerk

Alice J. Luck

Hon. Fred S. Ball, Jr.
Hon. Richard A. Ball
717 First Nat'l Bk Bldg.
Montgomery, Ala.

Plaintiff's Attorney

Defendant's Attorney

2508

Defendant lives at

RECEIVED IN OFFICE
Received In Office

M. S. BUTLER, Sheriff

Sheriff.

I have executed this summons

this 5 Dec 1962
by leaving 2 copies with

Fred Ball as agent
for The Borden Company

M. S. Butler, Sheriff
Montgomery County, Ala.

M. S. Butler
James S. Sheriff

Deputy

STATE of ALABAMA

Baldwin County

CIRCUIT COURT

R. A. FLOWERS

Plaintiffs

VS.

BORDEN'S DAIRY, a division of

THE BORDEN COMPANY

Defendants

1. Summons and Complaint

2. Interrogatories

Filed Oct 31 1962

Alice J. Duck Clerk

Hon. Fred S. Ball or
Hon. Richard G. Ball
717 First Nat'l Bk Bldg.
Montgomery, Ala.

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE
Received In Office

DEC 35 1963

M. S. BUTLER, Sheriff Sheriff.

I have executed this summons

this 5 Dec 1963

by leaving 2 copies with

Fred Ball as agent
for The Borden Company

20
M. S. Butler, Sheriff
Montgomery County, Ala.

M. S. Butler Sheriff.
Thompson Deputy Sheriff.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. AT LAW.

R. A. FLOWERS,

Plaintiff,

-vs-

BORDEN'S DAIRY, a Division
of The Borden Company,

Defendant.

No. 5797

ANSWERS TO INTERROGATORIES

Comes now W. J. BARRITT, JR., President of Borden's Dairy, Division of The Borden Company, Defendant in the above-styled cause, and files his Answers to the Interrogatories propounded by the Plaintiff herein and says:

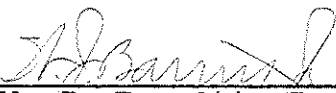
- 1) The correct name of the Defendant is Borden's Dairy, a Division of The Borden Company.
- 2) The Borden Company was incorporated in the State of New Jersey.
- 3) The Borden Company is qualified under the laws of Alabama to conduct business within the State of Alabama.
- 4) The statutory agent in Alabama designated for service of process upon Defendant is the Corporation Trust Company, First National Bank Building, Montgomery, Alabama.
- 5) Yes.
- 6) Yes.
- 7) The only knowledge I personally had of a producer wanting to transfer a base was through my first conversation with Mr. Thompson on August 14, at which time he advised me that Mr. Creighton wanted to transfer his base.
- 8) I did not, at any time, authorize the sale or transfer of any of the milk bases alleged to belong to the five producers as listed by Mr. Thompson.
- 9) No.
- 10) Copies of all correspondence with Mr. C. L. Thompson, Attorney, are attached.

11) I was advised by Mr. Jay Struble that Mr. C. L. Thompson and five producers, namely: A. V. Campbell, W. J. Campbell, Claude Creighton, John Dubrock and R. A. Flowers, appeared at Borden's office in Pensacola on August 30, 1963, and requested that effective immediately Borden was not to pick up the milk of these producers. Also, a copy of Mr. Thompson's letter of September 13, 1963, addressed to Borden's Dairy at Pensacola was forwarded to me for reply.

12) Our local Pensacola operators, Jay Struble and Lamar Garrett, were well aware that a base was allocated to regular producers supplying the Pensacola plant for the purpose of allocating fairly the utilization of the milk, and that the transfer of a base had to be approved by Borden, and usually was acceptable only if the transferee was satisfactory to Borden and purchased the farm and cattle of the transferor. Also, Messrs. Struble and Garrett were aware of the legal complications pertaining to the new Order of the Florida Milk Commission and the litigation pending regarding bases.

13) No written instructions.

14) Copies of letters written by C. L. Thompson and myself are attached.



W. J. Barritt, Jr. (President
Borden's Dairy, Division of
The Borden Company)

CHASON, STONE & CHASON
P. O. Box 120
Bay Minette, Alabama
Attorneys for Defendant

By 

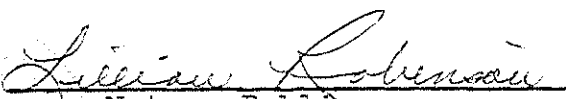
John Chason

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

Before me, the undersigned authority, personally appeared W. J. BARRITT, JR., President of Borden's Dairy, Division of The Borden Company, who, upon being first duly sworn, states that the foregoing Answers to Interrogatories are true and correct to the best of his information, knowledge and belief.



W. J. Barritt, Jr.

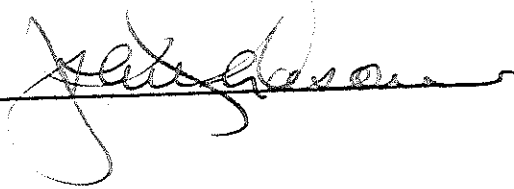


Notary Public

My Commission expires: 12-27-65

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answers to Interrogatories has been furnished to C. L. Thompson of Thompson & White, Attorneys for Plaintiff, 124 Court House Square, Bay Minette, Alabama, by ~~mail~~ ^{hand}, this 5th day of February, 1964.



FILED
2-5-1964
ALICE J. DUCK, CLERK
REGISTER

THOMPSON & WHITE

Attorneys-At-Law

BAY MINETTE, ALABAMA

C. LeNoir Thompson

Mary Thompson White

August 19, 1963

937-3921
Phones : 937-7487
937-8355

Mr. O. J. Barrett
Borden's, Inc.
Tampa, Florida

Dear Mr. Barrett:

In line with my telephone conversation with you, I refer to you an excerpt covering testimony of Mr. Lamar Garrett, manager of your Pensacola plant which was taken in the Circuit Court of Baldwin County, Alabama, in the course of a trial and his testimony given under oath.

You will note on page 2 there are bases for the dairymen which bases are kept for the Pensacola plant at Pensacola. At this time and until the Alabama-Florida compact, there is no question that the base of the defendant in this case was legally recognized by your plant and the right to buy and sell such base was recognized by your plant, as noted on pages 4, 5 & 6.

Now since the Alabama-Florida compact, Mr. Creighton was assigned his base in accordance with the base he had maintained and I further learned that the Farm Home Administration had loaned Mr. Creighton to effect the purchase of this herd, property and milk base and has taken a mortgage on the milk base.

Mr. Creighton proposes to sell this milk base and some of his herd and the FHA has been advised of this proposal and I am informed, is approving the sale.

I bring you this information direct so that no confusion will arise on the sale or transfer of these milk bases which have been allocated under the Alabama-Florida compact under the precedent established with your company at Pensacola and on which other rights have materialized.

I will be personally appreciative if you would clear the proposed transfers with your Pensacola plant so there will be no difficulty or confusion arising as these bases are transferred and such transfers are approved by the Alabama Milk Control in accordance with such authority as may develop on the part of Alabama under the Alabama-Florida compact.

Your kindness in advising me further in the matter so that we can handle these proposed transfers with the least possible confusion will be appreciated very much.

Yours very truly,

CBI/AM

cc: Florida Milk Commission.

August 21, 1963

Mr. C. LeMoire Thompson
Thompson & White, Attorneys-At-Law
Bay Minette, Alabama

Dear Mr. Thompson:

This will acknowledge your letter of August 19, 1963.

Borden's cannot and will not recognize any purported transfer of alleged or so-called bases with respect to its Pensacola plant and does not accept the validity of the purported Florida-Alabama so-called compact between the Florida Milk Commission and the Alabama Milk Control Board.

Serious legal problems have arisen out of action of the Florida and Alabama authorities concerning the Pensacola Milk Marketing Area and can only be settled, in all likelihood, by litigation. In these circumstances, it would be highly inadvisable for any Alabama producer to attempt to transfer any alleged or so-called base or quota with respect to Borden's Pensacola plant.

Yours very truly,

WJB/ab

W. J. Barritt, Jr.
President of Division

cc: J. A. McClain, Jr.

THOMPSON & WHITE

Attorneys-At-Law

BAY MINETTE, ALABAMA

C. LeNoir Thompson

Mary Thompson White

September 13, 1963

937-3931
Phones : 937-7437
937-8255

Borden's, Inc.
Pensacola, Florida

ATTN: Mr. Jay Strubel

Dear Mr. Strubel:

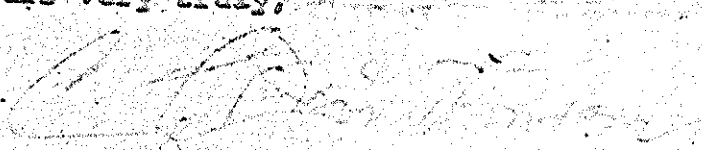
This will confirm our conversation on the afternoon of August 30, 1963, when I advised you as attorney for the five producers in Baldwin County that we had arranged the sale of their milk bases and with your approval would obtain the approval of the Alabama Milk Board and the Florida Milk Commission so that the transfers could be effected immediately and you would be able to begin picking up milk from the holders of these bases the following week.

You advised me that you would contact your Tampa office and would let me know on Tuesday, September 3, 1963, the decision of Borden's.

I would respectfully suggest that you have not advised me and the purchasers are awaiting action from you so that I may furnish to you the names and locations for picking up this 375 gallons faily milk base earned and/or purchased by the five Alabama producers.

Your kindness in advising me the form in which to present the transfer to your company as I requested in that conversation will be appreciated as I do not wish any misunderstanding about the procedures for handling the transfers of these milk bases.

Yours very truly,



CLT/hm

cc: Alabama Milk Control Board
Montgomery, Alabama

Florida Milk Commission
Tallahassee, Florida

September 20, 1963

Mr. C. LeMoire Thompson
Thompson & White
Attorneys at Law
Bay Minette, Alabama

Dear Mr. Thompson:

Your letter of September 13, 1963, addressed to Mr. Jay Struble, Borden's Pensacola Plant, has been referred to me for reply.

You were advised by me in my letter to you dated August 21, 1963, in response to your letter of August 19, 1963, that Borden's could not and would not recognize any purported transfer of alleged or so-called bases with respect to its Pensacola Plant.

On August 30, 1963, you accompanied by the following Alabama producers who had previously delivered milk to Borden's Plant at Pensacola, namely, A. V. Campbell, W. J. Campbell, Claude Creighton, John DuBrooks and R. A. Flowers, met with Mr. Jay Struble and Borden's Office Manager at Pensacola and advised that effective immediately Borden's was not to pick up the milk of these producers. Consequently, Borden's did not pick up any milk of these producers after August 30. We were later informed that the milk of these producers was being delivered to a plant in Mobile.

You were well aware on August 30, 1963, because of my letter to you dated August 21, 1963, that Borden's would, under no circumstances, recognize any purported transfer of the so-called bases to which you make reference. So far as Borden's is concerned, the above named producers have severed their relationship with Borden's Plant in Pensacola as of August 30, 1963, at their own request, and any relation they now hold for assignment or otherwise must be with the new distributors to which they have been delivering since August 30, 1963.

Yours very truly,

WJB/ab
cc: Ala. Milk Control Board
Fla. Milk Commission
J. C. Struble

W. J. Barritt, Jr.
President of Division

bcc: J. A. McClain
John Pappanastos

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

FILED

FEB 7 1964

ALICE L. BUCK, CLERK
REGISTER

R. A. FLOWERS,

Plaintiff,

-vs-

BORDEN'S DAIRY, a Division
of The Borden Company,

Defendant.

No. 5797

ANSWERS TO INTERROGATORIES

Comes now LAMAR GARRETT, Branch Manager of the Pensacola plant of Borden's Dairy, a Division of The Borden Company, Defendant in the above-styled cause, and files his Answers to the Interrogatories propounded by the Plaintiff herein and says:

- 1) Yes.
- 2) Yes. Borden's Dairy, Pensacola plant.
- 3) As Manager since April 1959.
- 4) Yes.
- 5) I have known him about 4 years.
- 6) Yes, a voluntary, mutually agreed upon base, not handled by any official authority of Alabama or Florida.
- 7) Yes.
- 8) The record of this base was kept at Borden's Pensacola plant until April 1960, and thereafter records were transferred to Borden's District Office, Tampa, Florida, although monthly settlement checks distributed by the Pensacola plant still show the bases of Alabama producers.
- 9) In December 1960, Plaintiff's milk base was .5522; July 1961, same; July 1962, same; July 1963, 1.0930.
- 10) This milk base percentile was on the producer's settlement sheet mailed to the Plaintiff for the month of August, 1963.
- 11) See answer to Interrogatory No. 9 above. Form attached hereto.

- 12) Unknown.
- 13) Unknown what so-called compact means.
- 14) Yes.
- 15) See Attachments Numbered 3 and 4.
- 16) As of September 1962, .5522. As of September 1963, 1.0930.
- 17) None.
- 18) None.
- 19) Myself.
- 20) There has been no change, except by orders of the Florida Milk Commission, which purport to pre-empt all bases at Borden's Pensacola plant solely for Florida producers. These orders are now being litigated in the Florida courts. The Florida Milk Commission has purported to adopt a so-called Florida-Alabama compact under which Borden's prior system of voluntary milk bases was eliminated. The legality of this compact has been questioned and probably will be litigated.
- 21) None.
- 22) Yes.
- 23) President, Borden's Dairy, a Division of The Borden Company.
- 24) Yes.
- 25) Baldwin, Escambia, Covington, Monroe & Butler Counties, Alabama.
- 26) Claude T. Creighton, John Dubrock, W. J. Campbell, A. V. Campbell, R. A. Flowers and Thomas I. Gray.
- 27) See Attachments Numbered 1 and 2.
- 28) Yes.
- 29) Yes.
- 30) See Attachments 1 and 2.
- 31) Unable to determine information desired from question.
- 32) No.
- 33) See answer to Interrogatory No. 27 above.

34) Mr. Barritt advised that due to the uncertain legal situation and likelihood that a transferee would obtain nothing, all efforts to transfer herd and base should be discouraged, and the prospective buyer advised that it would be doubtful that he would acquire anything of value.

35) See answer to Interrogatory No. 34 above.

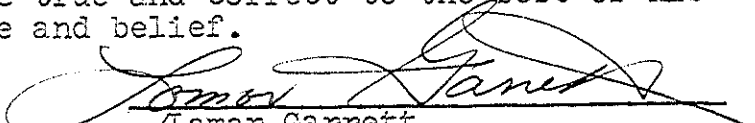

Lamar Garrett

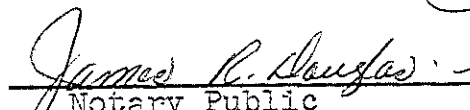
CHASON, STONE & CHASON
P. O. Box 120
Bay Minette, Alabama

By 
John Chason

STATE OF FLORIDA
COUNTY OF ESCAMBIA

Before me, the undersigned authority, personally appeared LAMAR GARRETT, Branch Manager of the Pensacola plant of Borden's Dairy, a Division of The Borden Company, who, upon being first duly sworn, states that the foregoing answers to Interrogatories are true and correct to the best of his information, knowledge and belief.

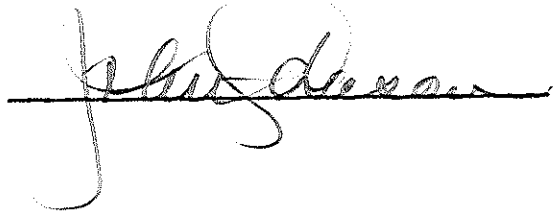

Lamar Garrett


Notary Public

My Commission expires: My Commission Expires Jan. 23, 1968

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answers to Interrogatories has been furnished to C. L. Thompson, of Thompson & White, Attorneys for Plaintiff, 12th Court House Square, Bay Minette, Alabama, by ~~mail~~ ^{file}, this 7th day of February, 1964.





Borden's

MILK SETTLEMENT
FLORIDA DISTRICT

CLASS CODE

- 1 - CLASS I
- 2 - CLASS II
- 3 - CLASS III
- 4 - CLASS IV
- 5 - ALA. CLASS I
- 6 - BULK SALES
- 7 - BULK TRANSFER
- 8 - MILITARY SALES
- 9 - SCHOOL SALES

R A FLOWERS
ROUTE 1
ROBERTSDALE ALA

BRANCH	PRODUCER NO.
PENSACOLA FL	320

BLEND PRICE

4737

PERIOD ENDED			CODE SEE UPPER RIGHT	BASE PRICE CENTS	BASE 23	BUTTERFAT TEST	PRICE PAID PER GALLON CENTS	GALLONS	AMOUNT	
MO.	DAY	YEAR							DOLLAR	CENTS
8	31	63	1	5650	1.0930	390	5607	1311	73	508
8	31	63	2	3440		390	3397	851	28	908
TOTAL								2162	102	416
DEDUCTIONS (CR.)										
HAULING CHGS									648	6CR
F S DAIRY ASN									131	CR
ADVANCE									451	00CR
38690									506	99
CHECK NUMBER									Net Amount Due	

	<u>Abrams, J.W.</u>	<u>JUNE</u> <u>Adkinson, E.W.</u>	<u>Campbell, A.V.</u>	<u>Campbell, W.J.</u>	<u>Coley, H.S.</u>	<u>Dubrock</u>	<u>Ellison</u>	<u>Emmons</u>	<u>Farrar</u>
Class I	3,261	3,258	2,859	1,497	2,417	1,323	2,786	1,712	3,983
Class II						84			1,097
Class VIII		199	140		223		993		1,541
 <u>JULY</u>									
Class I	3,249	3,350	2,940	1,983	2,485	1,361	2,866	2,514	4,096
Class II		382	550			11	83	91	2,223
Class VIII		665	583	116	370		568	499	813
 <u>AUGUST</u>									
Class I	3,726	3,401	2,984	1,652	2,523	1,382	2,909	2,552	4,158
Class II						72			1,065
Class VIII	257	1,090	698		629		26	298	1,567

A T T A C H M E N T 1

JUNE

	<u>Flowers</u>	<u>Gray</u>	<u>Huggins</u>	<u>H.A. Lee</u>	<u>O.F. Lee</u>	<u>Long</u>	<u>T.O. Owens</u>	<u>Smith</u>	<u>Stone</u>	<u>Wilson</u>	<u>Creighton</u>	<u>B.B. Dairies</u>	<u>Totals</u>
Class I	1,256	1,058	4,776	1,832	1,259	4,310	4,598	6,653	2,724	2,916	1,275	55,476	111,229
Class II	158		970	850					650			14,664	18,473
Class VIII						336	1,097	673		333			5,535

JULY

Class I	1,292	1,525	4,911	1,884	1,563	4,432	4,729	6,842	2,801	2,993	1,248	57,050	116,114
Class II	654		970	779		451	12	204	1,095			16,424	23,929
Class VIII						879	938	1,357					6,788

AUGUST

Class I	1,311	1,437	4,986	1,913	2,428	4,500	4,801	6,946	2,844	3,045	777	57,919	118,194
Class II	851		1,666	591	169				1,088			18,565	24,067
Class VIII						1,637	381	694		101			7,378

<u>1962</u>	<u>Craigton</u>	<u>Dubrook</u>	<u>Campbell, A. V.</u>	<u>Flowers</u>	<u>Campbell, W. J.</u>
<u>Sept.</u>					
Class I	1,607	1,219	3,362	1,477	2,268
Class II			1,334	114	238
 <u>Oct.</u>					
Class I	1,658	1,177	3,440	1,512	2,321
Class II			1,075	98	381
 <u>Nov.</u>					
Class I	1,787	1,242	3,226	1,346	2,176
Class II	103		185		185
Class III	364		929		102
 <u>Dec.</u>					
Class I	1,880	1,457	3,393	1,491	2,289
Class II	115		208	91	140
Class III	95		313		727
 <u>1963</u>					
<u>Jan.</u>					
Class I	1,803	1,438	3,268	1,436	2,205
Class II			333	35	225
Class III			31		175
 <u>Feb.</u>					
Class I	1,338	1,371	2,963	1,073	1,998
Class II		166	426		61
Class IX (School Milk)		91	197		133
 <u>March</u>					
Class I	1,456	1,465	3,164	1,390	2,134
Class II		576	1,914	103	380
 <u>April</u>					
Class I	1,340	1,427	3,358	1,476	2,265
Class II			1,572	91	
Class VIII (Military Milk)			99		34

1963	<u>Creighton</u>	<u>Dubrock</u>	<u>Campbell, A.V. Flowers</u>	<u>Campbell, W.J.</u>
May				
Class I	1,282	1,411	3,161	1,389
Class II			1,003	5
Class III				
June				
Class I	1,275	1,323	2,859	1,256
Class I		84	140	158
Class VIII (Military Milk)				1,497
July				
Class I	1,248	1,361	2,940	1,292
Class II		11	550	654
Class VIII (Military Milk)			583	
August				
Class I	777	1,382	2,984	1,311
Class II		72	698	851
Class VIII (Military Milk)				1,652
Totals				
Class I	17,451	16,273	38,118	16,449
Class II	218	909	8,600	2,195
Class III	459		1,273	5
Class VIII			1,520	
Class IX (School Milk)		91	197	
	<u>18,128</u>	<u>17,273</u>	<u>49,708</u>	<u>18,649</u>
				<u>27,491</u>

R. A. FLOWERS

Plaintiff

vs.

BORDEN'S DAIRY, a division
of THE BORDEN COMPANY

Defendant

X

X

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5797

DEMURRER:

Comes the Defendant in the above styled cause and demurs to the complaint filed in said cause and each and every count thereof, separately and severally, and assigns the following separate and several grounds, viz:

1. That said complaint does not state a cause of action.
2. That said complaint does not allege any duty owing by the Defendant to the Plaintiff.
3. The allegation in each count of the complaint claims damages for the conversion of a milk base without alleging sufficient facts to show that such base is personal property.
4. That each of said counts are vague and indefinite.
5. The allegations of the complaint are not sufficient to show any ownership of a milk base on the part of the Plaintiff.
6. For aught that appears from each count of the complaint the milk base referred to was simply a working arrangement between the parties and was not a property right in the Plaintiff.
7. No specific claim of ownership on the part of the Plaintiff to such milk base is sufficiently set out.
8. Said complaint claims damages for a tort and not for a breach of contract.
9. Count "-2-" of the complaint seeks to set out the quo modo of the negligence on the part of the Defendant without setting out sufficient facts to establish such negligence.
10. That count "-2-" of said complaint refers to a letter but the contents of such letter are not set out therein.

DEMURRER

R. A. FLOWERS

Plaintiff

vs.

BORDEN'S DAIRY, a division
of THE BORDEN COMPANY

Defendant

* * * * *

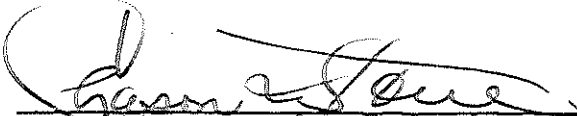
IN THE CIRCUIT COURT OF

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AT LAW

NO. 5797

11. That the allegations as to damages are but conclusions of the pleader.


Attorneys for Defendant

Defendant demands a trial of this
cause by a jury.


Attorneys for Defendant

FILED

DEC 16 1963

ALICE J. DICK, CLERK
REGISTER

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DEMURRER

R. A. FLOWERS

Plaintiff

vs.

BORDEN'S DAIRY, a division
of THE BORDEN COMPANY

Defendant

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 5797

FILED

DEC 16 1963

ALICE L. DUCK, CLERK
REGISTER