

| | | |
|------------------------------|---|-------------------------|
| TERMPLAN INCORPORATED, d/b/a | X | |
| MOBILE ACCEPTANCE COMPANY, | | |
| a corporation | X | IN THE CIRCUIT COURT OF |
| Plaintiff | X | BAIDWIN COUNTY, ALABAMA |
| VS | X | AT LAW NO. 7304 |
| AUBREY POTTER and MARGARET | X | |
| R. POTTER, Jointly and | | |
| Individually | X | |
| Defendants | X | |

Come the defendants and for answer to the complaint filed in said cause and to each phase thereof separately and severally, show as follows:

1. They deny the allegations of said complaint.
2. Come the defendants Aubrey Potter and Margaret R. Potter, jointly and individually and claim of the plaintiff by way of recoupment the sum of \$3,443.50, for conversion by the plaintiff on to-wit, July 7, 1965, of the following personal property:

| | |
|--------------------------|---------------|
| Apartment range | \$13.91 |
| Gas heater - double beds | 68.50 |
| Baby bed mattress | 16.48 |
| Baby high chair | 8.24 |
| 2 lamps | 3.09 |
| Cardinal dinnerware | 25.75 |
| Norge refrigerator | 75.00 |
| Bedroom suite | 152.11 |
| Gibson freezer | 173.00 |
| Admiral TV | 245.25 |
| Lawnmower | 84.92 |
| Living room suite | 393.60 |
| B911 Refrigerator | 284.16 |
| Bedroom furniture | 386.15 |
| Sectional sofa | 100.00 |
| 9 x 12 rug | 50.00 |
| Fan | 49.90 |
| Recliner chair | 54.31 |
| Steam iron | 5.00 |
| Stainless steel cookware | 90.00 |
| Sewing machine | 372.67 |
| Living room suite | 150.00 |
| Dining room suite | 153.50 |
| 23" TV | 200.00 |
| Norge freezer | 200.00 |
| Mattress | 76.06 |
| | <hr/> 3443.60 |

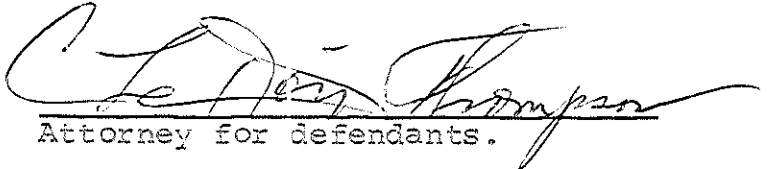
3. Come the defendants and without in anyway waiving plaintiff's claim or demand as a defense to the action of the plaintiff, say that at the time said action was commenced, the plaintiff was indebted to the defendants

in the sum of \$3,443.60 for this that the said plaintiff took, removed and carried away from the premises of the said defendants without notice to the said defendants and without authorization from said defendants, the following items of furniture, to-wit:


| | |
|--------------------------|------------------|
| Apartment range | \$13.91 |
| Gas heater - double beds | 68.50 |
| Baby bed mattress | 16.48 |
| Baby high chair | 8.24 |
| 2 lamps | 3.09 |
| Cardinal dinnerware | 25.75 |
| Norge refrigerator | 75.00 |
| Bedroom suite | 152.11 |
| Gibson freezer | 175.00 |
| Admiral TV | 245.25 |
| Lawnmower | 84.92 |
| Living room suite | 393.60 |
| B911 Refrigerator | 284.16 |
| Bedroom furniture | 386.15 |
| Sectional sofa | 100.00 |
| 9 x 12 rug | 50.00 |
| Fan | 49.90 |
| Recliner chair | 54.31 |
| Steam iron | 5.00 |
| Stainless steel cookware | 90.00 |
| Sewing machine | 372.67 |
| Living room suite | 150.00 |
| Dining room suite | 163.50 |
| 23" TV | 200.00 |
| Norge freezer | 200.00 |
| Mattress | 76.06 |
| | <u>\$3443.60</u> |

for all of which the plaintiff is indebted to the defendants in the sum of \$3,443.60, which defendants hereby offer to set off against the demand of the plaintiff and they claim judgment for the excess.

4. The defendants for answer to the said complaint saith that they have paid the debt for the recovery of which this suit was brought, before the action was commenced.


Attorney for defendants.

I hereby certify that I have this 12 day of October, 1967, served a copy of the foregoing answer on Honorable Mayer W. Perloff, attorney for plaintiff, by mailing a copy of same to his address in Mobile, Alabama.


FILED

OCT 12 1967

ALICE J. DUCK CLERK
REGISTER

587 B

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AT LAW

CASE NO. 20742-HOCKLANDER

PERLOFF & REID
BY: MAYER W. PERLOFF

TERMPPLAN INCORPORATED, d/b/a MOBILE ACCEPTANCE
COMPANY, a corporation

N.J.

VS. Suit for \$783.66 due on promissory note
(Waiver)

C. LENOIR THOMPSON
Bay Minette, Ala. 36507

AUBREY POTTER, and MARGARET R. POTTER,
Jointly and Individually

PLEADINGS, PROCESS, ETC. * FILING DATE *

1. Complaint and Summons * 10-4-66

* C & S served on Defendants on October 18, 1966.

2. Plea in Abatement * 11-14-66

* December 2, 1966- Plea in Abatement confessed and sustained and
* case ordered transferred to Baldwin County, -
* Joseph M. Hocklander, Judge

34-538

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.

In witness whereof I have hereunto set my hand and attached my official seal as such Clerk of said Court at Mobile, Mobile County, Alabama, on this the 5th day of December, 19 66.

John E. Mandeville, Clerk.

| | | |
|-----------------------------|---|-------------------------|
| TERMPAN INCORPORATED | (| IN THE CIRCUIT COURT OF |
| d/b/a MOBILE ACCEPTANCE | (| MOBILE COUNTY, ALABAMA, |
| COMPANY, a corporation, | (| |
| Plaintiff, | (| AT LAW |
| vs. | (| |
| AUBREY POTTER, and MARGARET | (| |
| R. POTTER, jointly and | (| |
| individually, | (| |
| Defendants. | (| CASE NO. <u>20742</u> |

Plaintiff claims of the defendants, jointly and individually, the sum of \$783.66, for that heretofore on to-wit: November 10, 1964, the defendants executed a written promissory note wherein they agreed to pay plaintiff the sum of \$1008.00, in installments of \$42.00 per month, including interest, commencing on the to-wit: 10th day of December, 1964. Plaintiff avers that defendants defaulted in payment thereunder on to-wit: April 7, 1965, and pursuant to the terms of said note the plaintiff herein has declared the entire balance due and owing.

Plaintiff avers that by the terms of said promissory note the defendants waived all right or claim of exemption under the Constitution and Laws of the State of Alabama and agreed to pay a reasonable attorney's fee in the event employment of an attorney was necessary for the collection, which said attorney's fee plaintiff claims in the amount of \$130.61, which is 20% of \$653.05.

WHEREFORE, Plaintiff claims of the defendants, \$653.05, plus interest, plus attorney's fee as aforesaid.

PERLOFF & REID

Perloff & Reid
Attorneys for Plaintiff

Defendants may be served:

Battles Wharf, Alabama

his emp: Grand Hotel (engineer)

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

OCT 4 2 55 PM '66

Richmond
CLERK

THE STATE OF ALABAMA
MOBILE COUNTY

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

AUBREY POTTER, and MARGARET R. POTTER, jointly and
individually

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,
at the place of holding the same, then and there to answer the complaint of

TERMPAN INCORPORATED d/b/a MOBILE ACCEPTANCE COMPANY,
a corporation

WITNESS: John E. Mandeville, Clerk of said Court, this 4 day of October, 1966

Attest: John E. Mandeville
Clerk

SHERIFF'S RETURN

Received day of , 19 and on 18 day
of Oct, 1966, I served a copy of
the within on ~~Hot 18~~
by service on

RAY D. BRIDGES, SHERIFF

By _____ D.S.

REC'D. SHERIFF DEPT.
MOBILE COUNTY, ALA.

OCT 6 4 07 PM '66

BY _____

JUDGE

DOCKET

CIVIL DIVISION

CIRCUIT COURT
MOBILE COUNTY

TERPLAN INCORPORATED d/b/a
MOBILE ACCEPTANCE COMPANY,
a corporation

VS.

} Complaint and Summons

AUBREY POTTER, and MARGARET
R. POTTER, jointly and
individually

Issued 4 day of October, 19 66

Defendant's Address

Battles Wharf, Alabama

His Employment:

Grand Hotel (Engineer)

PERLOFF & REID

By: Mayer W. Perloff

Plaintiff's Attorney

Received 8 day of Oct. 1966
d on 18 day of Oct. 1966
served a copy of the within to
Aubrey Potter
Margaret R. Potter
service on Sammy
Point Clear
TAYLOR WILKINS, Sheriff
By Ray Randall D. S.

Check # 160
You Owe me \$ 16.00
Ray Randall

C. LENOIR THOMPSON

Attorney-At-Law

BAY MINETTE, ALABAMA

Office Phone: 937-3921

36507

Residence Phone: 937-7487

November 10, 1966

Honorable John E. Mandeville, Clerk
Circuit Court
Mobile, Alabama

Re: Termplan Incorporated d/b/a
Mobile Acceptance Company, a corp.

vs.

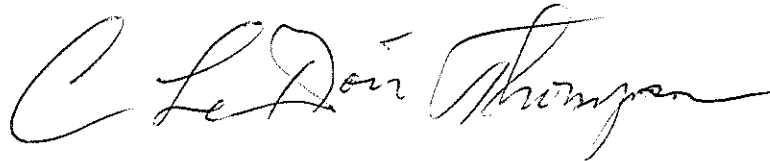
Aubrey Potter, and Margaret R.
Potter, jointly and individually

Case No. 20,742 - *H*

Dear Sir:

Please file the attached Plea in Abatement in the
above styled cause.

Yours very truly,



CLT/hm

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

Nov 14 8 35 AM '66


CLERK

| | | | |
|-----------------------------|---|-------------------------|------------|
| TERMPPLAN INCORPORATED | X | | |
| d/b/a MOBILE ACCEPTANCE | | | |
| COMPANY, a corporation, | X | IN THE CIRCUIT COURT OF | |
| | | | |
| Plaintiff | X | MOBILE COUNTY, ALABAMA | |
| | | | |
| vs | X | AT LAW | NO. 20,742 |
| | | | |
| AUBREY POTTER, and MARGARET | X | | |
| R. POTTER, jointly and | | | |
| individually, | X | | |
| | | | |
| Defendants | X | | |

PLEA IN ABATEMENT

Come the defendants, Aubrey Potter and Margaret R. Potter, in the above-entitled cause, appearing specially and only for the purpose of filing this plea, and say that the said Termplan Incorporated, d/b/a Mobile Acceptance Company, a corporation, plaintiff in this cause, ought not to have and maintain its said action for the defendants say separately and severally, as follows, to-wit:

FIRST

That the said defendants are residents of Baldwin County, Alabama, and are not residents of Mobile County, Alabama.

SECOND

That the said defendants reside in Baldwin County, Alabama, in the jurisdiction of the Circuit Court of Baldwin County, Alabama, and resided at this address when the alleged contract was executed and have continued to live at said address until the present date and are presently living at Battles Wharf, Alabama.

THIRD

That the said defendants have never resided in Mobile County, Alabama,

Wherefore, the defendants say that the Circuit Court of Mobile County, Alabama, is without jurisdiction to try and determine this cause, and that this said action should be abated, and prays the judgment of this Honorable Court whether the plaintiff should be allowed to further maintain this suit.

Aubrey Potter
Aubrey Potter

Margaret R. Potter
Margaret R. Potter

C. Lenoir Thompson
C. Lenoir Thompson
Attorney for defendants
P. O. Box 359
Bay Minette, Alabama

STATE OF ALABAMA

BALDWIN COUNTY

Before me C. Lenoir Thompson, a Notary
Public, in and for said County, in said State, personally
appeared Aubrey Potter and Margaret R. Potter, who being
known by me and by me first duly sworn, depose and say on
oath:

That they are the defendants in the above entitled cause
and have personal knowledge of the facts stated in the foregoing
pleas and that the said statements of fact therein contained
are true.

Aubrey Potter
Aubrey Potter

Margaret R. Potter
Margaret R. Potter

Sworn to and subscribed before me, this the 10 day of
November, 1966.

C. Lenoir Thompson
Notary Public, Baldwin County, Alabama

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON
Nov 14 8 35 AM '66

Paul Marshall
CLERK

Copy to: Meyer Perloff

FRIDAY, DECEMBER 2, 1966

TERMPPLAN, INCORPORATED, d/b/a
MOBILE ACCEPTANCE COMPANY,
a Corporation

HOCKLANDER -VS- 20742

AUBREY POTTER & MARGARET R.
POTTER, Jointly and Individ-
ually

PLEA IN ABATEMENT CONFESED
AND SUSTAINED, AND CASE
ORDERED TRANSFERRED TO
BALDWIN COUNTY

This day in open Court came the parties by their attorneys, and plaintiff in open Court on this day confessed defendants' Plea in Abatement filed November 14, 1966, in this cause; It is therefore, ordered and adjudged by the Court that defendants' said Plea in Abatement filed November 14, 1966, in this cause be, and the same is hereby sustained, and case ordered transferred to Baldwin County, Alabama.

Minute Book 34

Page 538

STATE OF ALABAMA, }
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

as rendered by the said Circuit Court on the 2nd day of December, 1966, in the cause
entitled No. 20742 - TERMPPLAN INCORPORATED d/b/a MOBILE ACCEPTANCE
COMPANY, a Corporation, Plaintiff,

— versus — AUBREY POTTER and MARGARET R. POTTER, Jointly and
Individually

Defendant, (~~Together with the cancellation thereof~~), as the same remains of record in this office in
Minute Book No. 34, Page No. 20742

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office
in the City of Mobile, Alabama, on this the 5th day of December, 1966

ATTEST:


Clerk, Circuit Court, Mobile County, Alabama.

CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY

No. 20742-H TERMPAN, INCORPORATED, d/b/a MOBILE ACCEPTANCE COMPANY Plaintiff
VS.
AUBREY POTTER and MARGARET R. POTTER, Jointly and Defendant
Individually

(Act No. 740, Reg. Session Ala. Legislature 1957
Appvd. Sept. 20, 1957)
(Amend Sec. 21, Title 11, Code Ala. 1940)

BILL OF COST

(Act No. 571, Reg. Ses. Leg. 1955)
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

[illegible]

I respectfully beg to advise that if this bill for costs is not paid before _____ 19_____, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk

LAW OFFICES OF
PERLOFF & REID
SUITE 205 - VAN ANTWERP BLDG.
MOBILE, ALABAMA, 36602

MAYER W. PERLOFF
T. DWIGHT REID

AREA CODE 205
TELEPHONE 433-5412

October 24, 1967

Mr. C. LeNoir Thompson
Attorney at Law
Bay Minette, Alabama, 36507

7304

Re: Termplan Inc. vs. Potter

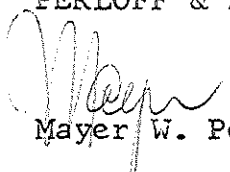
Dear LeNoir:

I received your letter of October 19th in regard to the above matter and have discussed it with my clients.

At the time that your clients have signed a dismissal with prejudice in the matter I would appreciate your instructing the clerk to do the same with regard to Termplan, Inc. and that should dispose of the matter at that time.

Very truly yours,

PERLOFF & REID



Mayer W. Perloff

MWP/rms