

ENGEL AND SMITH
ATTORNEYS AT LAW
SUITE 910 VAN ANTWERP BUILDING
P. O. BOX 1045
MOBILE, ALABAMA 36601

MYLAN R. ENGEL
LEO A. SMITH, JR.

TELEPHONE
AREA CODE 205
438-3625

September 28, 1967

Mrs. Alice V. Duck
Clerk Register
Circuit Court, Baldwin County
Bay Minette, Alabama

RE: Smith-Kelly v. Thornton, Circuit Case No. 7704

Dear Mrs. Duck:


Enclosed you will find our answer to the complaint filed in the abovestyled case.

We wish to point out that the heading of the complaint served upon our clients mentions the Circuit Court of Mobile County but was stamped as filed by you on August 28, 1967. We have reason to believe that the Honorable Attorney for the Plaintiff has made a mistake in the heading of his complaint since our Court in Mobile County has never heard of such a case.

Please verify for me if a complaint as abovestyled was filed in your Court on August 28, 1967.

Very truly yours,

ENGEL AND SMITH

By: 
Desmond B. Toler

DBT:gbj

SMITH-KELLY SUPPLY COMPANY,
INC.,

Plaintiff

vs.

WILLIAM T. THORNTON, JR.,
and SALLY G. THORNTON,
jointly and individually,

Defendants.

) IN THE CIRCUIT COURT

) OF BALDWIN COUNTY,

) ALABAMA

) AT LAW, CASE NO. 7704

2704
COMES the Defendants, William T. Thornton, Jr., and

Sally G. Thornton, separately and severally and files these
their pleas, separately and severally, to the complaint:

1. Not guilty.
2. The allegations of the complaint are untrue.

ENGEL AND SMITH
Attorneys for Defendants

BY: _____
Member appearing

Defendants respectfully demand a trial by jury.

FILED

SEP 29 1967

ALICE J. DUCK

CLERK
REGISTER

ENGEL AND SMITH
Attorneys for Defendants

BY: _____
Member appearing

CERTIFICATE OF SERVICE

I do hereby certify that I have on this _____
day of _____, 196____, served a copy of the
foregoing pleading on counsel for all parties to this
proceeding by mailing the same by United States mail,
properly addressed, and first class postage prepaid.

GIBBONS & STOKES

ATTORNEYS AT LAW
160 CONGRESS STREET
MOBILE, ALABAMA
TELEPHONE 433-2611

E. GRAHAM GIBBONS
B. F. STOKES, III

August 25, 1967

MAILING ADDRESS
P. O. BOX 293
MOBILE, ALABAMA. 36601

Mrs. Alice Duck, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama

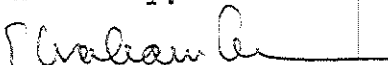
Re: Smith-Kelly, Inc. vs William T. Thornton,

Dear Mrs. Duck:

I enclose herein an original and three copies of a suit base on a promissory note in the above case. I would appreciate it if you would file the same in the Circuit Court of Baldwin County and issue it for service, and I would also appreciate it if you would confirm the filing date and also the date when service is perfected.

Thank you very much for your attention to this matter.

Sincerely,


E. Graham Gibbons

EKG:hc

Enclosure

Smith Kelly
15

JURY LIST - DECEMBER TERM - DECEMBER 9, 1968

Wm Thornton

- ~~1. Allen, Thomas I., Farmer, Gateswood~~
- ~~2. Avera, Leon W., Farmer, Foley~~
- ~~3. Beverly, John, Salesman, Robertsedale~~
- ~~4. Booner, Travis, Farmer, Elseanor~~
- ~~5. Britt, Cecil, Carpenter, Bay Minette~~
- ~~6. Brooks, Horace D., Farmer, Summerdale~~
- ~~7. Bryars, Rudolph H., Brookley Field, Bay Minette~~
- ~~8. Calloway, Thomas Andrew, Seafood Dealer, Gulf Shores~~
- ~~9. Chandler, Jack, Newport, Bay Minette~~
- ~~10. Colgin, Ned, Farmer, Summerdale~~
- ~~11. Creamer, Henry, City Employee, Fairhope~~
- ~~12. Dawson, Roy S., Livestock Dealer, Robertsedale~~
- ~~13. Fell, Russell, Civil Service, Lillian~~
- ~~14. Fell, Walter, Mechanic, Bon Secour~~
- ~~15. Flowers, Edward, Farmer, Bay Minette~~
- ~~16. Guthrie, Hersey, Farmer, Bon Secour~~
- ~~17. Hall, John Sr., Carpenter, Loxley~~
- ~~18. Hammond, Walter W., Grocer, Robertsedale~~
- ~~19. Head, Charlie, Jr., Farmer, Stapleton~~
- ~~20. Houston, Angela, Clerk, Fairhope~~
- ~~21. James, Dayton, Farmer, Foley~~
- ~~22. Kane, James, Farmer, Loxley~~
- ~~23. Koehler, Charles G., Jr., Banker, Elberta~~
- ~~24. Kriss, Frank, Farmer, Silverhill~~
- ~~25. Little, Bernie, Mechanic, Bay Minette~~
- ~~26. Lundberg, Carl, Newport, Bay Minette~~
- ~~27. Mason, Jimmy, Salesman, Fairhope~~
- ~~28. Mathews, Charles L., F.C.A., Robertsedale~~
- ~~29. McDaniel, Schuler, Farmer, Robertsedale~~
- ~~30. Quinney, Bruce, Mobile Public Work, Daphne~~
- ~~31. Singleton, Art, Public, Rosinton~~
- ~~32. Soesbe, John R., Mechanic, Foley~~
- ~~33. Stripling, Fred, Television Repair, Robertsedale~~
- ~~34. Thomas, Jennings, Farmer, Foley~~
- ~~35. Venson, Cecil, Civil Service, Stapleton~~
- ~~36. Volovsky, Jimmie, Mechanic, Robertsedale~~
- ~~37. Waters, Orville Clyde, Merchant, Bay Minette~~
- ~~38. Yarbrough, George C., Jr., International Paper Co., Bay Minette~~
- ~~39. Amos, Willie, Clerk, Silverhill~~
- ~~40. Conway, James, Mobile Construction, Daphne~~
- ~~41. Gill, R. A., Oil Co., Robertsedale~~

P XXXXX X

D XXXXX XX

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SMITH-KELLY SUPPLY COMPANY,
INC.,

Plaintiff

vs:

WILLIAM T. THORNTON, JR.,
and SALLY G. THORNTON,
Jointly and Individually,

Defendants

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA


AT LAW, CASE NO. 7704

DEMURRER

Comes now the Plaintiff and demurs, separately and severally, to the Pleas of the Defendant, separately and severally, and as grounds therefore sets out as follows, separately and severally:

1. For that said plea is irrelevant, immaterial and incompetent.
2. For that it affirmatively appears that said plea seeks to alter the terms of a written instrument by parol evidence.
3. For ought that appears said plea seeks to alter the terms of a written instrument by parol evidence.
4. For that said plea is no defense to the Complaint.
5. For that it does not appear whether the alleged agreement made by Plaintiff was in writing.

WILSON HAYES


Attorney for the Plaintiff.

12-12-68 Filed. F.J.M.

12-12-68 Demurrer sustained.

Superior J. Madison
Judge

SMITH-KELLY SUPPLY COMPANY, INC.,	:	IN THE CIRCUIT COURT
	:	OF BALDWIN COUNTY,
Plaintiff	:	ALABAMA
VS.	:	
	:	
WILLIAM T. THORNTON, JR., and SALLY G. THORNTON, jointly and individually,	:	
Defendants.	:	AT LAW
	:	CASE NUMBER 7704
	:	

P L E A

Comes now the Defendant, Sally G. Thornton and
filed this additional plea, separately and severally to
the Complaint:

3. There has been a failure of consideration for
the signature of this Defendant, in that this Defendant signed
said promissory note which is the subject of this suit under
the agreement that the Plaintiff would not file any liens
thereafter against the property of either Defendant.

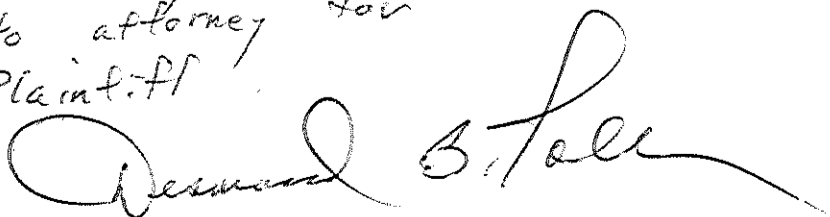
This Defendant alleges that Plaintiff, on to-wit:
January 12, 1966, recorded in the Probate Court of Mobile County,
Alabama in Real Property Book 649, Pages 313-315, a materialman's
lien affidavit against certain real property owned by the Defend-
ant, William T. Thornton, Jr.

ENGEL AND SMITH, Attorneys
For Defendant, Sally G. Thornton

BY: 

MEMBER APPEARING

*A copy of this
pleading has been
personally delivered
to attorney for
Plaintiff*



FILED

DEC 12 1968

ALICE J. DUCK

CLERK
REGISTER

SMITH-KELLY SUPPLY CO.,)
INC.)
Plaintiff)

Baldwin County
Circuit Court

vs.)
Wm. Thornton, et. al.)

Case no. 7TD9

Comes now the Defendant,
Sally Thornton, and files
this her plea 4 to the
Plaintiff's complaint:

4: There has been a failure
of consideration as far as
this defendant is concerned.

Wm. Thornton

Sworn to and subscribed
before me this 12 day
of December, 1968.

Desmond B. Tolu
Notary Public,

Attorney for Defendants
Engel & Smith

12-12-68 Filed. J.A.M.

SMITH-KELLY SUPPLY COMPANY,
INC.,

Plaintiff,

VS.

WILLIAM T. THORNTON, JR. and
SALLY G. THORNTON, jointly
and individually

Defendants.

) IN THE CIRCUIT COURT OF

) MOBILE COUNTY,

) ALABAMA

) AT LAW

) CASE NO. 7704

Plaintiff claims of the defendants \$9,490.29 due by promissory note made by them on the 4th day of January, 1966. Defendants failed to pay said note according to its terms. By said note defendants waived all right of exemption and agreed to pay a reasonable attorney's fee, which is claimed in the sum of \$1,898.06.

E. Graham Gibson
Attorney for Plaintiff

For service upon the defendants at Spanish Fort Estates, Spanish Fort, Alabama, telephone number 438-2116, by forwarding to the Sheriff of Baldwin County, Alabama, Bay Minette, Alabama. Serve late in evening.

FILED

AUG 28 1967

ALICE J. DUCK

CLERK
REGISTER

12.12.68

We the Jury find for the Plaintiff
and fix Attorney Fee at \$2400⁰⁰ four
thousand Dollars; and interest at
6% on the note

Arthur Singleton
Foreman -

We the Jury find for the Plaintiff
in the amount of \$7,216 Seven
thousand Two Hundred & Sixteen Dollars

Arthur Singleton
Foreman -

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 7704

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon

William T. Thornton and Sally G. Thornton, jointly and individually

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

William T. Thornton and Sally G. Thornton, jointly and ind. Defendant

by Smith-Kelly Supply Company, inc

Plaintiff

Witness my hand this 28th day of August 1967

Alvin M. ... Clerk

24 9-2-67

73

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

SMITH-KELLY SUPPLY COMPANY, inc

Plaintiffs

vs.

WILLIAM T. THORNTON and

SALLY G. THORNTON, ^{Defendants} Jointly and Ind

SUMMONS AND COMPLAINT

Filed 8-28-1967

Alice J. Duck

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED
Received In Office

AUG 28 1967

TAYLOR WILKINS, Sheriff

I have executed this summons

this Sept 2 1967

by leaving a copy with

William T. Thornton
↓
Sally G. Thornton
Spanish Fort

Sheriff claims 88 miles at

Ten Cents per mile Total \$ 8.80

TAYLOR WILKINS, Sheriff

Roy Randall

DEPUTY SHERIFF

Taylor Wilkins Sheriff
Roy Randall Deputy Sheriff

SMITH-KELLY SUPPLY COMPANY,
INC.,

Plaintiff

vs.

WILLIAM T. THORNTON, JR.,
and SALLY G. THORNTON,
jointly and individually,

Defendants.

) IN THE CIRCUIT COURT
) OF BALDWIN COUNTY,
) ALABAMA

:

)

AT LAW, CASE NO. 7704

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1. Not guilty.
2. The allegations of the complaint are untrue.

ENGEL AND SMITH
Attorneys for Defendants

BY: D. B. Tolson
Member appearing

Defendants respectfully demand a trial by jury.

ENGEL AND SMITH
Attorneys for Defendants

BY: D. B. Tolson
Member appearing

FILED

SEP 29 1967

ALICE J. DUCK CLERK
REGISTER

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 28th
day of Sept, 1967, served a copy of the
foregoing pleading on counsel for all parties to this
proceeding by mailing the same by United States mail,
properly addressed, and first class postage prepaid.