

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

ATTORNEYS AT LAW

NINTH FLOOR MERCHANTS NATIONAL BANK BUILDING

PHONE 433-5561 P. O. BOX 1988

MOBILE, ALABAMA 36601

C. A. L. JOHNSTONE, JR.

R. F. ADAMS, SR.

JAMES L. MAY, JR.

ALEX T. HOWARD, JR.

J. JEPHTHA HILL

CHARLES B. BAILEY, JR.

BROCK B. GORDON

BEN H. HARRIS, JR.

WILLIAM H. HARDIE, JR.

DOUGLAS INGE JOHNSTONE

February 7, 1968

GESSNER T. MCCORVEY (1882-1965)
BEN D. TURNER, OF COUNSEL

Mrs. Alice J. Duck, Register
Circuit Court of Baldwin County
Baldwin County Courthouse
Bay Minette, Alabama

NO. 7985

Re: Merchants National Bank of Mobile as Executor and Trustee
under the Last Will and Testament of J. A. Pilgrim, dec'd.
vs. Julius Ulrich and Irma Ulrich

Dear Mrs. Duck:

I enclose the original and two copies of a complaint to be
filed in connection with the above matter which I would appreciate
your causing to be filed.

Kindly acknowledge receipt and the filing of this complaint
on the enclosed copy of this letter and return to me in the
enclosed self-addressed, stamped envelope.

Thank you for your cooperation.

Sincerely,


Charles B. Bailey, Jr.

CBBjr/mjo

Enclosures

FILED

FEB 12 1968

ALICE J. DUCK

CLERK
REGISTER

THE MERCHANTS NATIONAL BANK)	IN THE CIRCUIT COURT OF
OF MOBILE, a National Banking	:	
Association, as Executor and)	BALDWIN COUNTY, ALABAMA
Trustee under the Last Will	:	
and Testament of J. A.)	AT LAW
Pilgrim, Deceased,	:	
)	
Plaintiff,	:	CASE NO. <u>7985</u>
)	
-vs-	:	
)	
JULIUS ULRICH and IRMA ULRICH,	:	
jointly and severally,)	
	:	
Defendants.)	

The Plaintiff claims of the Defendants the sum of Six Thousand and No/100 (\$6,000.00) Dollars together with interest thereon from, to-wit, the 13th day of August, 1962, at the rate of four (4%) per cent per annum, due and owing by the Defendants to the Plaintiff under the terms of a written contract entered into by and between the Defendants and the Plaintiff's Testator on, to-wit, the 13th day of August, 1962, a true and correct copy of which is hereto attached and incorporated herein by reference as fully as if set out hereinbelow in words and figures.

The Plaintiff alleges that under the terms of said agreement, the Plaintiff's Testator, J. A. Pilgrim, agreed to sell and the Defendants agreed to purchase one Big Blow Stump Driving Machine with service truck and five (5) foot blade, bearing Serial No. TDR23310, Motor No. TDRM23487 at an agreed price of Six Thousand and No/100 (\$6,000.00) Dollars, which sum would be paid in full on or before August 13, 1967 with interest on the unpaid balance at the rate of four (4%) per cent per annum.

The Plaintiff further alleges that although the Plaintiff's Testator, the said J. A. Pilgrim, deceased, and the Plaintiff itself, have complied with all of the terms of said agreement, the Defendants have wholly failed and refused to comply with the terms of said agreement and have paid no part of the agreed purchase price although repeated demands therefore have been made upon the Defendants for payment, wherefore, the Plaintiff claims of the Defendants the sum of Six Thousand and No/100 (\$6,000.00)

Dollars together with interest thereon at the rate of four (4%) per cent per annum from August 13, 1962 together with the cost of this cause.

JOHNSTONE, ADAMS, MAY, HOWARD & HILL

By: Charles B. Bailey, Jr.
Attorneys for Plaintiff

Defendant's Address:
Post Office Box 19
Elberta, Alabama

FILED

FEB 12 1968

ALICE J. DICK CLERK
REGISTER

CONDITIONAL SALE CONTRACT

agreement, including the time for making payments, shall be as follows:

This agreement, made this 13th day of August 1962, between

J. A. Pilgrim, Seller, and Julius Ulrich and Irma Ulrich, of Elberta,

County of Baldwin, State of Alabama, Purchaser, WITNESSETH:

The Seller hereby sells, and the Purchaser hereby purchases, the above described property, subject to the terms and conditions hereinafter set forth, the property described below, all of which the Purchaser agrees to keep and maintain as personal property at Elberta, Baldwin County, Alabama, to-wit:

One (1) Big Blow Stump Driving Machine with service truck and 5 foot blade, Ser. No. TDR23310, Motor No. TDRM23487.

For which the Purchaser agrees to pay as follows: \$6,000.00,

which sum shall bear interest on the unpaid balance at the rate of

4% per annum and shall be payable from the gross receipts derived

by Purchaser from custom, contract and lease work with the machine

to the extent of at least onethird (1/3) thereof; but in all event

the purchase price or such fraction thereof as shall remain unpaid

shall be due and payable on or before August 13, 1967. Purchaser

will make accounting on demand by Seller.

The Purchaser agrees to keep the above described property

insured against loss or damage by fire, wind, theft and accident,

in an insurance company or companies satisfactory to the Seller,

in an amount not less than the unpaid portion of the purchase price

such insurance to be payable to the Seller as its interest may

appear, and the policies therefor to be delivered to and retained

by the Seller until the purchase price is paid in full. If the

Purchaser fails at any time to provide such insurance, the Seller

may have the property insured and the cost of such insurance to

be paid by the Purchaser.

It is understood that the title to the above described prop-

erty shall not pass to the Purchaser but shall remain vested in and

be the property of the Seller, or his assigns, until the purchase

price, interest, and all other sums due hereunder have been fully

paid. Each and all of the conditions and stipulations of this

agreement, including the time for making payments, shall be and are of the essence of this contract, and no agreement for any extension of time or postponement of any payment shall be valid unless in writing signed by the then owner of this contract.

The Purchaser agrees to keep, use, and maintain the property in a careful manner so as not to unreasonably or unnecessarily expose the same to damage, wear, or depreciation, and agrees to keep the same in good order and repair and free of all taxes, liens and encumbrances whatsoever, and agrees not to remove the property from its place of business described above nor to sell, assign, or transfer its rights under this contract or transfer possession of said property or permit the same to pass from its possession.

In the event of any default by the Purchaser in the performance of any of the terms or conditions hereof, the Seller may at its option and without notice declare the unpaid portion of the purchase price, together with accrued interest thereon, if any, immediately due and payable, and thereupon the Seller may either proceed to collect from the Purchaser the balance due or retake possession of the property wherever it may be found; with or without legal process, and hold the same free of all claims of the Purchaser and retain as liquidated damages all payment theretofore made.

The Purchaser acknowledges receipt of a true copy hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 13th day of August 1962.

SELLER:

J. A. Pilgrim (L.S.)
J. A. Pilgrim

PURCHASER:

Julius Ulrich (L.S.)
Julius Ulrich
Irma Ulrich (L.S.)
Irma Ulrich

FILED

FEB 12 1968

ALICE J. DUCK CLERK
REGISTER

STATE OF ALABAMA)
COUNTY OF BALDWIN)

I, the undersigned Notary Public in and for said State and County, hereby certify that J. A. Pilgrim, Julius Ulrich and Irm Ulrich, whose names are signed to the foregoing instrument and w are known to me, acknowledged before me this day that, being in- formed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 13th day of August 1962.


Notary Public

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA
Baldwin County

Circuit Court, Baldwin County

No. 7985

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon JULIUS ULRICH & IRMA ULRICH,

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.....

JULIUS ULRICH & IRMA ULRICH, Jointly & Severally, Defendant..S...

by THE MERCHANTS NATIONAL BANK OF MOBILE, A National Banking Association, as.....

Executor and Trustee under the Last Will and Testament of J. A. PILGRIM, Deceased, Plaintiff.....

Witness my hand this 12th day of February 1968...

Alice J. Ulrick, Clerk

24/
2-23-68

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

THE MERCHANTS NATIONAL BANK OF
MOBILE, A National Banking
Association, as Executor and
Trustee ~~of~~ under the Last Will
and Testament of J. A. Pilgrim,
deceased

Plaintiffs

vs.

JULIUS ULRICH & IRMA ULRICH
Jointly & Severally, Defendants

SUMMONS AND COMPLAINT

Filed February 12, 1968

Alice J. Duck Clerk

JOHNSTONE, ADAMS, MAY, HOWARD & HILL
Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED
Received In Office
FEB 12 1968

TAYLOR WILKINS
SHERIFF

19.....

Sheriff

I have executed this summons

this 23rd Feb 1968
by leaving a copy with

Julius Ulrich
Irma Ulrich

Sherriff's claim 168
Ten Cents per mile Total \$16.80
TAYLOR WILKINS Sheriff
J. M. Eastman
DEPUTY SHERIFF

Taylor Wilkins Sheriff
Jm Eastman Deputy Sheriff
Chas. A. A.

FILED

MAR 14 1968

ALICE J. NICK
CLERK
REGISTER

THE MERCHANTS NATIONAL BANK X
OF MOBILE, A National Bank- X
ing Association, as Executor X
and Trustee under the Last X IN THE CIRCUIT COURT OF
Will and Testament of J. A. X
Pilgrim, Deceased, X
X BALDWIN COUNTY, ALABAMA
Plaintiff, X
X
vs. X AT LAW
X
JULIUS ULRICH and IRMA X
ULRICH, X CASE NUMBER: 7985
X
Defendants. X

DEMURRER

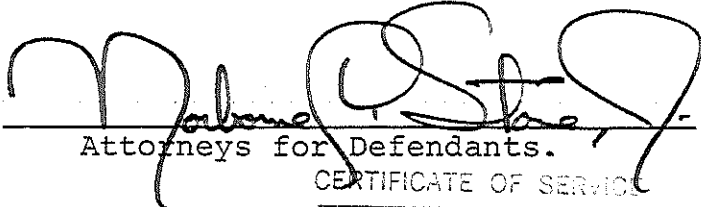
Come now the Defendants in the above styled cause, by their attorneys, and demur to the Complaint heretofore filed against them and as grounds therefor assign, separately and severally, the following:

1. The Complaint fails to state a cause of action.
2. The allegations of the Complaint are vague, indefinite and uncertain.
3. The Complaint fails to allege that the Plaintiff or its Testator have fully complied with all of the terms and provisions of the contract therein sued on.
4. It affirmatively appears from the allegations of the Complaint that the Defendants are not severally liable for the amount allegedly due.
5. It affirmatively appears from the allegations of the Complaint that the amount claimed as damages is excessive.

Respectfully submitted,

CHASON, STONE & CHASON

By:

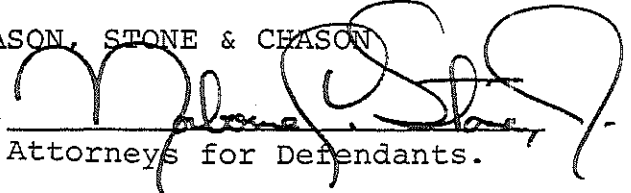

Attorneys for Defendants.

CERTIFICATE OF SERVICE

The Defendants demand a trial of this cause by a jury.

CHASON, STONE & CHASON

By:


Attorneys for Defendants.

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 14 day of March, 1968.

Imy

THE MERCHANTS NATIONAL BANK OF
MOBILE, A National Banking
Association, as Executor and
Trustee under the Last Will and
Testament of J. A. Pilgrim,
Deceased,

Plaintiff,

vs.

JULIUS ULRICH and IRMA ULRICH,

Defendants.

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NUMBER: 7985

* * * * *

FILED
DEPT. OF REVENUE

* * * * * MAR 14 1968 * * * * *

ALICE J. DUCK CLERK
REGISTER
CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. Box 120
BAY MINETTE, ALABAMA