

GUARANTY PEST CONTROL

Plaintiff

VS.

JAMES DUNNAM

Defendant

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW

CASE NO. 64483

4094

ANSWERS TO INTERROGATORIES

Comes now the Defendant in the above styled cause and  
files his answers to the interrogatories.

1. James Dunnam, Loxley, Alabama.
2. Yes, I recognize the Contract.
3. That is my signature.
4. As I said in No. 3, it is my signature.
5. As I said in No. 3 and 4, I am James Dunnam.
6. The Contract says termites.
7. All it said is termites.
8. It does.
9. I asked about whether this stuff would kill all the bugs around the place and he told me that it would kill all kinds of bugs, roaches, silverfish and everything and that is why I signed the Contract. When I signed the contract, the salesman did not tell me that it was for termites only and I cannot read well enough to read that little writing.
10. Yes there was an oral agreement, you might say, 'cause he told me he would get rid of all the bugs and that is why I signed the Contract.
11. I don't recall any disclaimer.
12.
  1. They did not go under the house and remove all the waste and rubbish like they promised, they just raked around the edge.
  2. The only trenching was a little bit around the house, but they didn't trench around the walls and pillars and everything like they said they would under the house.
  3. They sprayed something in the trench they made around the house, that trench wasn't hardly deep enough to see. All they did was spray under the house because there was no trenches under the house.
  4. We don't have any hollow masonry.
  5. All they did was spray under the house, they did not give any attention to the subflooring, sills and joist.

Three weeks after they finished, the house just filled up with termites coming from the woods.

13. I didn't make any payments because they did not do what the salesman/would do. When I saw all the bugs still around I did not pay. If they would rid the bugs, I would pay.

James M. Dunnam

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority, personally appeared James Dunnam, who is known to me and who being by me first duly sworn, deposes and says: That he has read the foregoing answers to the interrogatories and that the matter set forth therein is true and correct.

James M. Dunnam

Sworn to and subscribed before me on this the 2nd day of July, 1968.

Carol S. Stallings  
Notary Public, Baldwin County, Ala.  
*My Commission expires 2/1/72*

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10 day of July 1968 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.

WILTERS, BRANTLEY & NESBIT

By: Thyllis S. Nesbit

FILED

JUL 10 1968

ALICE J. DUCK

CLERK  
REGISTER

GUARANTY PEST CONTROL,	)	IN THE CCIRCUIT COURT
	)	
Plaintiff,	)	OF BALDWIN COUNTY, ALABAMA
	)	
VS.	)	AT LAW
	)	
JAMES DUNNAM,	)	
	)	
Defendant.	)	CASE NO. 64483

INTERROGATORIES

Comes now the plaintiff in the above styled cause and propounds the following interrogatories to defendant, James Dunnam:

1. Please state the name and address of the person giving answers to these interrogatories.

2. Please state whether or not you recognize the attached contract which shall be referred to from now on as Exhibit "A".

3. Please state whether or not you signed the contract marked Exhibit "A".

4. Please state whether or not you recognize the signature marked on Exhibit "A".

5. Please state whether or not the signature is that of James Dunnam.

6. After reviewing Exhibit "A", please state whether or not there was a contract for anything other than termites.

7. After reviewing Exhibit "A", please state whether or not the mere word "termites" is written into the contract under the words "after making a careful inspection of the building at the above mentioned address, we recommend the following treatment for subterranean termites".

8. Please state after reviewing Exhibit "A" whether or not the words "this contract does not cover household pests such as roaches, waterbugs, silverfish, etc." and inform.

9. Please state whether or not there was any other agree-


ment other than the attached Exhibit "A" as to ridding the property located at Route Box 119, Loxley, Alabama of other insects or household pests.

10. Please state whether or not there were any oral agreements made between the plaintiff and defendant in the above styled cause as to any ridding of household pests.

11. Please state whether or not any disclaimer of liability was made by Guaranty Pest Control, the plaintiff in the above styled cause.

12. Please state whether or not the services done by Guaranty Pest Control as described in said Exhibit "A" were indeed performed and if not, please innumerate which you contend were not performed.


13. Please furnish a list of all payments made by James Dunnam pursuant to the attached Exhibit "A" and in so doing, please also furnish true and correct facsimile copies of cancelled checks, receipts or other written evidence of such payments, if any.

  
John S. Gonas, Jr.  
Attorney for Plaintiff

STATE OF ALABAMA )

COUNTY OF MOBILE )


Before me, a notary public in and for the said County and State, personally appeared John S. Gonas, Jr., who being by me first duly sworn, deposes and says: that he is attorney for the plaintiff, Guaranty Pest Control; that the witness whose testimony is to be taken is a resident of the State of Alabama, residing in Baldwin County, Alabama; that the witness, James Dunnam, is a material witness for the plaintiff and his evidence to be secured by this deposition will be material evidence on the trial of this cause.

  
John S. Gonas, Jr.

Sworn to and subscribed before me this 10<sup>th</sup> day of June, 1968.

FILED

JUN 10 1968

  
Notary Public

ALICE J. BRYANT, Clerk  
Please have the Sheriff effect personal service on Phyllis S. Nesbit, Attorney at Law, Bay Minette, Alabama or on James Dunnam, Route Box 119, Loxley, Alabama

# CONTRACT

# Guaranty Pest Control, OF MOBILE Inc.

P. O. BOX 4472  
2900 OLD SHELL ROAD  
MOBILE, ALABAMA 36607

## BONDED TERMITE CONTROL

Member Alabama Pest Control Association  
Member of Chamber of Commerce  
One of the South's Largest Pest Control Companies

PHONE:  
473-8671

ALABAMA LAW PERMIT NO. 22

### SPECIFICATION OF INSPECTION

Date 3-29-67

Name James W. Dawson Phone \_\_\_\_\_  
Property Located at Box 119 Street \_\_\_\_\_  
City Dodley State Ala County Baldwin

After making a careful inspection of the building at the above mentioned address, we recommend the following treatment for subterranean termites:

Termites

This Contract does not cover household pests such as roaches, water bugs, silverfish, etc. in any form.

- (1) Guaranty Pest Control, Inc., agrees to remove all waste and rubbish from under the building.
- (2) Guaranty Pest Control, Inc., agrees to trench all curtain walls, pillars, chimneys, three to four inches deep (if possible) under house and to trench around outside house three to four inches deep where flowers or shrubbery or other plants, or concrete, do not interfere.
- (3) Guaranty Pest Control, Inc., agrees to thoroughly poison trenches with a toxic chemical.
- (4) It is further agreed that Guaranty Pest Control, Inc., will puncture all hollow masonry work and thoroughly poison inside same with toxic chemical.
- (5) Guaranty Pest Control, Inc., agrees that all sub-flooring, sills and joist will be thoroughly treated.

This company agrees to re-inspect said property within one year from date of treatment. If at any time during this one year period subterranean termites re-appear and infest this building this Company will re-inspect and re-treat the termite infestation at no extra cost to the present owner. This estimate will include a guaranteed contract when treatment is completed and contracts will be issued from this office. We are bonded and it is on file at the State Department of Agriculture.

The Guaranty Pest Control, Inc., respectfully submits the following bid on a complete extermination of subterranean termites for a period of one year, for the sum of \$ 1100.00 and \$ 1500 each year thereafter for as long as desired. This contract is transferable with sale of house.

Total amount of this contract including interest \$ 120.96.

This inspection accepted and work authorized in accordance with same.

Months pest service for \_\_\_\_\_ financed in the contract, written up under separate contract and renewable under separate contract.

The parties to this instrument, whether maker, endorser, surety, or guarantor, each for himself, hereby expressly waive as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, or any other State, as to personal property, and they each severally agree to pay all costs of collecting or securing or attempting to collect or secure this debt, including a reasonable attorney's fee whether the same be collected or secured by or any attorney consulted with reference to suit or otherwise.

This contract when properly signed by both parties shall be binding on both parties.

Accepted by: [Signature]  
(Customer)  
Payments 12 x 10.00  
Date of First Payment May 15

GUARANTY PEST CONTROL, INC.  
Salesman [Signature]  
Financed by \_\_\_\_\_

EXHIBIT "A"

8094

Buranty Suit Control

VS

James Dunnam

FILED

JUN 11 1968

ALICE J. DUCK

CLERK  
REGISTER

Ex. 1

6-20-68  
Served Accepted  
Hagler, S. Hagler  
Attorney for Defendant

GUARANTY PEST CONTROL

PLAINTIFF

VS.

JAMES DUNNAM

DEFENDANT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 8094

PLEAS

Comes now the Defendant in the above styled cause and files the following pleas to the Plaintiff's Complaint.

1.

There was a failure of consideration flowing from the Plaintiff to the Defendant in this: That the Plaintiff acting for and through his agent who was ten and there acting within the line and scope of his employment, conferred with the Defendant and agreed to treat his house and premises for termites, roaches and other small household insects. That the Plaintiff agreed to and assured the Defendant that he could and would eradicate the termites, roaches and other small insects. The Defendant avers that the Plaintiff's agent did treat his house with some substance which is not known to the Defendant which was apparently innocuous and that it did not rid his house and premises of termites, roaches and other household insects. Hence there was a failure of consideration.

2.

For further defense to this suit, the Defendant says that the Plaintiff acting by and through his agent, falsely and fraudulently represented unto the Defendant that he could treat the Defendant's house and premises and that he guaranteed this to eradicate the termites, roaches and small household insects and pests, and for this guarantee the Defendant promised to pay him a certain sum of money. The Defendant avers that the Plaintiff did treat his house and premises with some substance and that it failed wholly to eradicate the termites, roaches and household insects and that it had little or no effect on them. Because of such fraud, the Defendant does not feel that he should have to pay.

WILTERS, BRANTLEY & NESBIT

BY:

Thyler S. Nesbit  
Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 15 day of May,  
1968, 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.

WILTERS, BRANTLEY & NESBIT

By: Thyler S. Nesbit

**FILED**

MAY 13 1968


**ALICE J. DUCK**

CLERK  
REGISTER



GUARANTY PEST CONTROL, INC., a corporation	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
Plaintiff	)	
VS	)	
	)	AT LAW
JAMES DUNNAM	)	Case No. <u>8094</u>
Defendant	)	

Plaintiff claims of the defendant the sum of of \$120.96 due under and by virtue of the terms of a written contract heretofore executed by the defendant to the plaintiff on to-wit, March 29, 1967 under the terms of which, plaintiff agreed to inspect and treat premises of the defendant for infestation subterranean termites. Plaintiff avers that it performed all duties called upon of it under the terms of said contract but that defendant breached the terms of said contract in that he failed and refused to make payment to plaintiff as specified in said contract. Defendant further waived all right of exemption under the Constitution and Laws of Alabama, under the terms of said contract. Also, plaintiff claims the sum of \$40.32 as a reasonable attorney's fee under the terms of said contract and plaintiff avers that said fee is reasonable.

  
 B. F. Stokes, III  
 Attorney for Plaintiff  
 P. O. Box 293  
 Mobile, Alabama

Serve the defendant at Rt. 1, Box 119, Loxley, Alabama

**FILED**

APR 18 1968

**ALICE J. DUCK** CLERK  
 REGISTER

SUMMONS AND COMPLAINT

Moore Printing Co. - Bay Minette, Ala.

STATE OF ALABAMA

Baldwin County

Circuit Court, Baldwin County

No. 8094

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

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon .....James Dunnam.....

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.....

.....James Dunnam....., Defendant.....

by .....Guaranty Pest Control Inc., a Corporation.....

....., Plaintiff.....

Witness my hand this.....18th.....day of.....April.....1968.....

.....*Elise J. Smith*..... Clerk

## STATE OF ALABAMA

Baldwin County

## CIRCUIT COURT

GUARANTY PEST CONTROL

Inc., A Corp.,

Plaintiffs

vs.

JAMES DUNNAM

Defendants

## SUMMONS AND COMPLAINT

Filed April 18, 1968

Alice J. Duck, Clerk

B. F. STOKES, III

P. O. Box 293

Plaintiff's Attorney

Mobile, Alabama

Defendant's Attorney

Defendant lives at

Received In Office

APR 18 1968 19.....

Sheriff

I have executed this summons

this 2- day 1968

by leaving a copy with

James R. Stokes

Sheriff

Total \$ 4.00

Ten Cents per line

TAYLOR WILKINS, Sheriff

BY: CAROL CHICKEN

James R. Stokes, Sheriff

Carol Chicken, Deputy Sheriff

L. H. H.