

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

ELROY McKENZIE,

Plaintiff,

vs.

KERR-McGEE CHEMICAL
CORPORATION,

Defendant.

CIVIL ACTION NO. _____

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, KERR-McGEE CHEMICAL CORPORATION, acting herein by and through one of its attorneys in the above entitled cause, being duly authorized in the premises, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation, as Surety, are held and firmly bound unto ELROY McKENZIE, Plaintiff in the above entitled cause, in the sum of FIVE HUNDRED and No/100 (\$500.00) DOLLARS, For the payment of which well and truly to be made, the undersigned, and each of the undersigned, do bind themselves, their successors and assigns, jointly, severally and firmly by these presents.

DATED this 11th day of October, 1968.

The condition of this obligation is such that whereas said KERR-McGEE CHEMICAL CORPORATION, the principal, obligor, has applied to the District Court of the United States for the Southern District of Alabama, Southern Division thereof, to remove a cause from the Circuit Court of Baldwin County, Alabama, wherein the said ELROY McKENZIE, is Plaintiff, and Petitioner is Defendant, to the District Court of the United States for the Southern District of Alabama, Southern Division thereof, held in the City of Mobile, Alabama, and that all further action in the Circuit Court aforesaid be stayed.

NOW, THEREFORE, if the Petitioner shall pay all costs and disbursements that may be awarded by the United States District Court if the said District Court shall hold that such suit was not removable or was wrongfully

removed thereto, then this obligation shall be void, otherwise to be and remain in full force and effect.

KERR-McGEE CHEMICAL CORPORATION

BY: John N. Leach, Jr.
As one of its Attorneys

PRINCIPAL

FIDELITY AND DEPOSIT COMPANY
OF MARYLAND, a corporation

BY: W. B. Demaree
As its Attorney-in-Fact

SURETY

Accepted and approved on this _____ day of October, 1968.

Clerk, U. S. District Court

CERTIFICATE OF SERVICE

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 10th day of Oct, 1968.

John N. Leach, Jr.
Attorney for

FILED

OCT 12 1968

AUDIE J. BUCK

CLERK
REGISTER

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

ELROY McKENZIE,

Plaintiff,

vs.

KERR-McGEE CHEMICAL
CORPORATION,

Defendant.

CIVIL ACTION NO. _____

PETITION FOR REMOVAL OF CAUSE
TO FEDERAL COURT

Appearing specially for the purpose of filing this petition and without submitting to the jurisdiction of this Court to take any action other than action upon this Petition, now comes your Petitioner KERR-McGEE CHEMICAL CORPORATION, Defendant in the above entitled cause and presents and files this its Petition for removal of the above entitled cause from the Circuit Court of Baldwin County, Alabama to the District Court of the United States for the Southern District of Alabama, Southern Division thereof, held in the City of Mobile, Alabama, and respectfully shows in support thereof the following:

1. This cause was filed by the above named Plaintiff in the Circuit Court of Baldwin County, Alabama, on, to-wit, the 5th day of September, 1968, and was commenced by the filing of the complaint and the issuance of a summons thereon. The complaint seeks a recovery of SEVENTEEN THOUSAND FIVE HUNDRED and No/100 (\$17,500.00) DOLLARS, as damages, which Plaintiff claims for failure of his bean crop to yield the amount of beans which it yielded if the fertilizer which Plaintiff alleges was furnished by the Defendant had been the grade guaranteed by the Defendant, which fertilizer Plaintiff alleges had a commercial value of more than five percent below that for grade guaranteed, all of which Plaintiff alleges occurred on or about the 5th day of April, 1968 in Baldwin County, Alabama.

2. Copies of the complaint and summons to Defendant which were issued in this cause are attached hereto and made a part thereof. Said complaint and summons to Defendant were served on the Petitioner on, to-wit, the 16th day of September, 1968, and are the only pleading, order and process which have been heretofore served on Petitioner in this cause.

3. Petitioner further shows that the above entitled cause is one of a civil nature and is a suit for the recovery of SEVENTEEN THOUSAND FIVE HUNDRED and No/100 (\$17,500.00) DOLLARS, and that the amount in controversy exceeds the sum of TEN THOUSAND DOLLARS (\$10,000.00), exclusive of interest and costs.

4. ELROY MCKENZIE, the Plaintiff in this cause, was at the commencement of this suit, and still is, a citizen and resident of the State of Alabama, and Petitioner was at the commencement of this suit, and still is, a corporation organized and existing under and by virtue of the laws of the State of Delaware and domiciled in said State, and having its principal offices in the City of Oklahoma City, State of Oklahoma, and was not at the commencement of this suit, and is not presently, an Alabama corporation.

5. Petitioner files herewith a good and sufficient bond, such as is required by law, conditioned that Petitioner will pay all costs and disbursements which may be awarded by this Court, if this Court shall determine that this suit was not removable by Petitioner, or was wrongfully or improperly removed hereto by Petitioner.

INGE, TWITTY, DUFFY & PRINCE

BY: John N. Leach Jr.
Attorneys for Petitioner

OF COUNSEL:

Inge, Twitty, Duffy & Prince
1301 Merchants National Bank Building
Mobile, Alabama

CERTIFICATE OF SERVICE

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 16th day of Oct, 1968.

John N. Leach Jr.
Attorney for

FILED

OCT 12 1968

ALICE J. DUCK

CLERK
REGISTER

STATE OF ALABAMA
COUNTY OF MOBILE

Personally appeared before me, the undersigned, authority, John N. Leach, Jr., whose name is signed above and who is known to me, and who being by me first duly sworn on oath doth depose and say that he is one of the attorneys in the above entitled cause for Kerr-McGee Chemical Corporation, that he is familiar with the allegations of the foregoing Petition, that he is informed and believes that the allegations of said Petition are true and correct; and that upon such information and belief he states the allegation of said Petition are true and correct.

John N. Leach, Jr.
JOHN N. LEACH, JR.

Subscribed and Sworn to before me this 10th day of
October, 1968.

James Charleston
NOTARY PUBLIC, MOBILE COUNTY, ALABAMA

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Kerr-McGee Chemical Corporation to appear within thirty days from the service of this writ in the Circuit Court, to be held for said county at the place of holding the same, then and there to answer the complaint of Elroy McKenzie.

WITNESS my hand this 5th day of September, 1968.

Alice J. Luck
Clerk

* * * * *

ELROY MCKENZIE,
Plaintiff,
VS.
KERR-McGEE CHEMICAL
CORPORATION,
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA


AT LAW

8304

COMPLAINT

The plaintiff claims of the defendant Seventeen Thousand Five Hundred Dollars (\$17,500.00) damages for that heretofore on or about to-wit, April 5, 1968, the plaintiff purchased from the defendant a large amount of fertilizer which is commonly known as 16-8-8, which fertilizer was specified to contain sixteen percent nitrogen to be applied by the plaintiff on 248 acres of land in Baldwin County, Alabama, which said land was to be used for the planting, raising and harvesting of green beans during the Spring of 1968 and of which the defendant had knowledge. Plaintiff avers that he did apply the said fertilizer to the said land and after the application thereof and the planting by him of the green beans, the plaintiff ascertained that the said fertilizer purchased from the defendant had a commercial value of more than five percent below

that for the grade guaranteed and as a proximate result and consequence of the deficiency of the said fertilizer, the plaintiff's bean crop did not yield the amount of beans which it would have yielded if the said fertilizer had been of the grade guaranteed by the defendant, all to the plaintiff's damages aforesaid, hence this suit.


Attorney for Plaintiff

Plaintiff demands a trial by jury
of said cause.


Attorney for Plaintiff

FILED

SEP 5 1908

ALICE J. LORAN CLERK
REGISTER



STATE OF ALABAMA
OFFICE OF SECRETARY OF STATE
MONTGOMERY, ALABAMA 36104

September 6, 1968

MABEL AMOS
SECRETARY OF STATE

Hon. James R. Owen
110 Courthouse Square
Bay Minette, Alabama 36507

8304

Dear Mr. Owen:

Enay 7712 Kerr-McGee vs.

Re: Kerr-McGee Chemical Corp.

In reply to your letter of September 5 the foreign corporation records on file in this office disclose that the above named Maryland corporation qualified in the State of Alabama on December 28, 1965. The statutory agents are Fred S. Ball, Jr. and Richard A. Ball, 200 South Lawrence Street, Montgomery, Alabama 36104.

With best wishes, I am

Yours sincerely,

Mabel A. Amos

Mabel S. Amos
Secretary of State

EH/jr

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

ELROY MCKENZIE,

Plaintiff,

vs.

KERR-McGEE CHEMICAL
CORPORATION,

Defendant.

CIVIL ACTION NO. 8304

TO:

Honorable Alice J. Duck
Clerk of the Circuit Court
Bay Minette, Alabama

James R. Owen, Esquire
P. O. Box 248
Bay Minette, Alabama 36507

PLEASE BE ADVISED that on October 11, 1968, at Mobile, Alabama, KERR-McGEE CHEMICAL CORPORATION, Defendant in the above entitled matter, filed in the District Court of the United States for the Southern District of Alabama, Southern Division thereof, a petition to remove the above entitled cause to said District Court of the United States from the Circuit Court of Baldwin County, Alabama. True and correct copies of the petition and bond filed in said cause are attached hereto.

This notice is given you in accordance with the provisions of Title 28, Section 1446 (e), United States Code.

INGE, TWITTY, DUFFY & PRINCE

BY: John N. Leach, Jr.
ATTORNEYS FOR DEFENDANT

OF COUNSEL:

Inge, Twitty, Duffy & Prince
1301 Merchants National Bank Building
Mobile, Alabama

FILED

OCT 12 1968

ALICE J. DUCK

CLERK
REGISTER

CERTIFICATE OF SERVICE

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 11th day of Oct, 1968.

John N. Leach, Jr.
Attorney for

STATE OF ALABAMA)
*
BALDWIN COUNTY)

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Kerr-McGee Chemical Corporation to appear within thirty days from the service of this writ in the Circuit Court, to be held for said county at the place of holding the same, then and there to answer the complaint of Elroy McKenzie.

WITNESS my hand this 5th day of September, 1968.

Alice D. Duck
Clerk

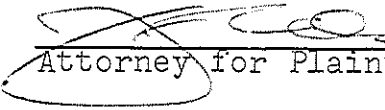
* * * * *

ELROY McKENZIE,)	
)	
Plaintiff,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
KERR-McGEE CHEMICAL)	AT LAW
CORPORATION,)	
)	8304
Defendant.)	

COMPLAINT


The plaintiff claims of the defendant Seventeen Thousand Five Hundred Dollars (\$17,500.00) damages for that heretofore on or about to-wit, April 5, 1968, the plaintiff purchased from the defendant a large amount of fertilizer which is commonly known as 16-8-8, which fertilizer was specified to contain sixteen percent nitrogen to be applied by the plaintiff on 248 acres of land in Baldwin County, Alabama, which said land was to be used for the planting, raising and harvesting of green beans during the Spring of 1968 and of which the defendant had knowledge. Plaintiff avers that he did apply the said fertilizer to the said land and after the application thereof and the planting by him of the green beans, the plaintiff ascertained that the said fertilizer purchased from the defendant had a commercial value of more than five percent below

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Attorney for Plaintiff

Plaintiff demands a trial by jury
of said cause.



Attorney for Plaintiff

FILED

SEP 5 1908

ALICE J. DUCK CLERK
REGISTER

RECEIVED IN OFFICE
SEP 16 1968
M. S. BUTLER, Sheriff

Received 13 day of Sept 1968
and on 14 day of Sept 1968
I served a copy of the within 1st
on Allen McKeith Chemical Corp.

By service on Full Ball as a/c.

M. S. Butler Sheriff
W. G. Walker D. S.

M. S. Butler, Sheriff of Montgomery
County, Alabama, Claim \$1.50 each for
serving 1 process(es) and \$1.00
travel expense on each of 1
process(es) or a total of 2.50

No. 8304

Elroy Mc Kenzie

vs.

Kerr-McGee
Chemical Corporation

FILED

SEP 5 1968

ALICE J. DUCK CLERK
REGISTER