CITY FINANCE COMPANY OF

MOBILE, INC., a corporation,

IN THE CIRCUIT COURT

Plaintiff,

OF BALDWIN COUNTY,

VS:

ALABAMA

GEORGE W. HARVILLE and MARY

HARVILLE, separately and

severally,

•

Defendants.

CASE NUMBER 8401

Comes now the Plaintiff in the above styled cause and amends its Complaint heretofore filed by adding the following Count:

COUNT TWO

The Plaintiff claims of the Defendants the sum of Three Hundred Eighty-Four and No/100 (\$384.00) Dollars damages for the breach of a written agreement entered into between the Defendants and Kirby Sales and Service, on, to-wit: April 27, 1968. Plaintiff avers that said written agreement, together with all rights thereunder, was assigned to it in writing for valuable consideration before default. Plaintiff alleges that in said contract, Defendants agreed, for the valuable of, to-wit: one (1) Kirby Vacuum Cleaner, No. A401-366 with attachments, buffer, waxer and handy bather, No. 433, to pay the sum of, to-wit: Three Hundred Eighty-Four and No/100 (\$384.00) Dollars in consecutive monthly installments of, to-wit: Sixteen and No/100 (\$16.00) Dollars per month, the first payment commencing on June 15, 1968, and a like installment due on the 15th of each month thereafter until the said Three Hundred Eighty-Four and No/100 (\$384.00) Dollars was paid in full. Plaintiff avers that said contract further provides that in the event Defendants default in any payment due under said contract, the entire and full remaining amount due under the contract shall be immediately due and payable at the option of the holder

Filed, May 14, 1969. Dufan y. maddown Judy.

VOL 61 PAGE 501

of the contract. Plaintiff avers that the Defendants became in default under the terms of said contract by having failed or refused to make the installment payment due on, to-wit: June 15, 1968, and that the Plaintiff elected to declare the entire balance immediately due and payable.

Plaintiff further avers that in and according to the terms of said contract, Defendants did waive all right in and to their exemption of personal property under the Constitution and laws of the State of Alabama and in addition did agree to pay a reasonable attorney's fee in the event of default and employment of an attorney to collect the balance due under said contract.

WHEREFORE, the Plaintiff claims of the Defendants the sum hereinabove set out, with interest thereon, together with a reasonable attorney's fee as provided in said contract.

McDERMOTT & SLEPIAN

Attorneys for Plaintiff

EDWARD B. McDERMOTT

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

1969 1969

-2-

NOTICE of APPEAL

STATE OF ALABAMA, MOBILE COUNTY	
City Finance Co. of Mobile,	Inc.
Plaintiff VS. George W. Harville & Mary Harville	
Defendant	
George W. Harville & Ma	ary Harville
	Mobile, Inc.
the plaintiff a transfer to the Circuit Cou tained anxappeoly from the circuit known	in the above entitled cause has prayed and ob- rt of Baldwin County, Alabama wendwedxbyx
from xhodsexof the COURT OF GENERAL SESSI	ONS OF MOBILE COUNTY, and having
complied with the requirements of the law i	n such cases made and provided, the same has Baldwin
been granted to the next term of the CIRCU	IT COURT of MINING County, to be held for
said County, you are hereby notified accord	ingly.
Given under my hand this the 15 da	AR.

Case No. 69900

City Finance Co. of Mobile, Inc.

Plaintiff,

VS

George W. Harville & Mary Harville Rt. 2, Box 161, Bay Minette, Alabama

Defendant.

A STATE OF THE STA

TRANSFER

NOTICE OF XXXXXXX

Returnable To The Circuit Court
OF BALDWIN COUNTY

Issued: October 15, 1968

Serve On:

ATTORNEYS FOR PLTF:

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Defen	dent
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Writ of Arrest	.50
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Taking care of such property, such just compensation as	
aking and approving bonds of every kind	
When property is sold under execution or attachment	
Commission:	5 %
When sale is stayed by restraining order	meleage = 1.40
	Total \$
	GRAND TOTAL \$ 10-2.5
respectfully call your attention to the above Court Co	st Bill which if not paid by
9, it will be my unpleasant duty to issue execution or	a your property for the recovery of the same.
	J. D. Richardson, Clerk
	-

THE COURT OF GENERAL SESSIONS OF MOBILE COUNTY

Case No. 69900
Filed: August 30, 1968
Issued: September 3, 1968
Returnable: October 10, 1968
Service Had: 9-12-68
Cause of Action: W &
Attorney for Plaintiff: McDermott & Slepian
Attorney for Defendant: C. Lenoir Thompson

9-17-68 Deft's (George Harville) Pleas filed.

9-17-68 Deft's (Mary Harville) Pleas filed.

10-10-68 Plea Confessed - Transferred to Circuit Court of Baldwin County.

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ABOVE STYLED CAUSE, AS IT APPEARS ON RECORD AND IN THE FILES OF THE COURT OF GENERAL SESSIONS OF MOBILE COUNTY, ALABAMA.

WITNESS MY HAND THIS THE 15th DAY OF OCTOBER, 1968.

CLERK OF THE COURT OF GENERAL SESSIONS OF MOBILE COUNTY, ALABAMA

C. LENOIR THOMPSON Attorney-At-Law BAY MINETTE, ALABAMA 36507 Office Phone: 937-3921 Residence Phone: 937-7487 September 16, 1968 Honorable J. D. Richardson, Clerk Court of General Sessions of Mobile County Mobile, Alabama Re: City Finance Company of Mobile, Inc. a corporation George W. Harville and Mary Harville Case No. 69900 Dear Sir: Attached hereto are pleas to the venue of the Court of General Sessions of Mobile County which I respectfully ask that you file. I further am sending to McDermott and Slepian, attorneys for the plaintiff copies. With personal regards, I am, Yours very truly, CLT/hm

CITY FINAL	NCE COMPANY OF MOBILE, IN	1C.,),	
-	Plaintiff), Y	IN THE COURTHOF GENERAL
vs		Y	SESSIONS OF MOBILE COUNTY,
	HARVILLE and MARY separately and	χ	ALABAMA, CASE NO. 69900
ents -	Defendants,	χ	
		χ	

Comes the defendant, George W. Harville in the above-entitled cause, appearing specially and only for the purpose of filing this plea and says that the said City Finance Company of Mobile, Inc., plaintiff in this cause, ought not to have and maintain its said action for the defendant says separately and severally, as follows, to-wit:

FIRST

That the said defendant is a permanent resident of Baldwin County, Alabama, and is not a resident of Mobile County, Alabama.

SECOND

That the said defendant resided at Route 2, Box 161, Bay Minette, Baldwin County, Alabama, and resided at this address when the alleged evidence of indebtedness was executed and has continued to reside at said address until the present date; residing in Baldwin County, Alabama, when the cause of action arose.

THIRD

That the said defendant has never resided in Mobile County, Alabama.

WHEREFORE, defendant says that the Court of General Sessions 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.

Jiggle Harville

George W. Harville

COMPLAINT AND SUMMONS

REPORT TO GENERAL SESSIONS COURTROOM "B" FIRST FLOOR

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MOBILE COUNTY

TO THE SHERIFF OF MOBILE COUNTY—GREETINGS:

You are hereby commanded to summon	GEORGE W. HARVILLE and MARY HARVILLE,
separately and severally, Route	2. Box 761 Rev Minage
MIN YOU DO Y MIN	ette. Bay Minerta Alekana
to be and appear before the Court of Conord	Cartina
County, on the / day of Oct.	sessions of Mobile County at the Courthouse of Mobile at the hour of 9:00 A.M.,
	at the hour of 9:00 A.M.,
then and there to answer a complaint of CI	TY FINANCE COMPANY OF MOBILE, INC.
	corporation
Paragraph - Paragr	

of a debt or other demand not exceeding Seven Hundred Fifty Dollars.

Herein fail not and have you then and there this precept with your doings.

Plaintiff claims of Defendant (s) and Kirby Salar + Service

on, to-wif: 427-68

assigned to plaintiff prior to default, and according to terms of agreement ment. Defendant (s) warved all expendences under Alabama law and agreed to pay a reasonable afformer's fee, which sum of mency, with

MCDERMONT & SLEPIAN. Attys. for Plaintiff

41079 COMPLAINT AND SUMMONS Ž. REC'D SHERIFF DEF MOBILE COUNTY, AL ξ Atty. for Plaintiff: MCDERMOTT AND SLEPIAN SEP 15 4 32 PM Atty. for Defendant: THE COURT OF GENERAL SESSIONS OF MOBILE COUNTY Ret. Oct 10,1968 CITY FINANCE COMPANY OF MODILE, INC. a corporation GEORGE W. MARVILLE and MARY HARVILLE, separately and severally, Route 2, Box 161, Bay Minette, Alabama, OR HIS EMPLOYMENT: City of Bay Minette, Bay Minette, Alabama. Continued To ALLEME! SEP 1 01968 WALLE MITTING Sherip 3 If the Garres come will be found & DIME WHATHY MADE Executed by Service on Sheriff of Mobile County ∠Deputy Sheriff I miles north of BM

STATE OF ALABAMA

BALDWIN COUNTY

Before me,

Notary Public, in and for said County, in said State, personally appeared George W. Harville, who, being known to me and by me first duly sworn deposes and says on oath:

That he is the defendant in the above entitled cause and has personal knowledge of the facts stated in the foregoing pleas and that the said statements of fact therein contained are true.

Sworn to and subscribed before me, this 6 day of September,

1968.

CITY FINANCE COMPANY OF MOBILE, a corporation	INC., X
Plaintiff	X IN THE COURT OF GENERAL X
VS	SESSIONS OF MOBILE COUNTY,
GEORGE W. HARVILLE and MARY HARVILLE, separately and	ALABAMA, CASE NO. 69900
severally, Defendats	χ
	χ

Comes the defendant, Mary Harville in the above-entitled cause, appearing specially and only for the purpose of filing this plea and says that the said City Finance Company of Mobile, Inc., plaintiff in this cause, ought not to have and maintain its said action for the defendant says separately and severally, as follows, to-wit:

FIRST

That the said defendant is a permanent resident of Baldwin County, Alabama, and is not a resident of Mobile County, Alabama.

SECOND

That the said defendant resided at Route 2, Box 161, Bay Minette, Raldwin County, Alabama, and resided at this address when the alleged evidence of indebtedness was executed and has continued to reside at said address until the present date; residing in Baldwin County, Alabama, when the cause of action arose.

THIRD

That said defendant has not resided in Mobile County, Alabama, during the past eleven years.

WHEREFORE, defendant says that the Court of General Sessions of Mobile County, Alabama, is without jumisdiction 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.

9/17/2

Mary Harville

Marry Harville

Attorney for defendance

STATE OF ALABAMA

BALDWIN COUNTY

Before me, to bin Bing, a Notary

Public, in and for said County, in said State, personally appeared Mary Harville, who, being known to me and by me first duly sworn deposes and says on oath:

That she is the defendant in the above entitled cause and has personal knowledge of the facts stated in the foregoing pleas and that the said statements of fact therein contained are true.

Mary Harvelle
Mary Harville

Sworn to and subscribed before me, this 6 day of September, 1968.

Notary Public, Baldwin County, Alabama.

COMPLAINT AND SUMMONS

REPORT TO GENERAL SESSIONS COURTROOM "B" FIRST FLOOR

The	State	of	Alaba	ma
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TO THE SHERIFF OF MOBILE COUNTY—GREETINGS:

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You are hereby commanded to summon GEORGE W. HARVILLE and MARY HARVILLE
separately and severally, Route 2, Box 161, Bay Minette, Alabama OR
his EMPLOYMENT: City of Bay Minette, Bay Minette, Alabama
to be and appear before the Court of General Sessions of Mobile County at the Courthage of Mobile
County, on the / day of Of , 19 at the hour of 9:00 A.M.
then and there to answer a complaint of CITY FINANCE COMPANY OF MOBILE, INC.
a corporation

of a debt or other demand not exceeding Seven Hundred Fifty Dollars. Herein fail not and have you then and there this precept with your doings.

Witness my hand, this day of

the Court of General Sessions of Mobile County. Plaintiff claims of Defendant (s) due by written agreement between Defendant

ment Defendant (s) waived all exemptions under Alabama law and interest thereon, is still due and unpaid. Plaintiff avers Defendant (s)

defaulted under terms of said agreement, on No-wit: 6

McDERMOTT & SLEPIAN. Attys. for Plaintiff

COMPLAINT AND SUMMONS

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Executed by Ser	vice on										
	:		Defenda	ant						. :	:

Sheriff of Mobile County

Deputy Sheriff

a corporation	NCE COMPANY OF MOBILE,	INC.,	()	
a corpora			X	
	Plaintiff		Y	IN THE CIRCUIT COURT OF
vs				BALDWIN COUNTY, ALABAMA
GEORGE W.	HARVILLE and MARY		X	NO.
	separately and		χ	
			χ	
	Defendants		X	

Come the defendants in the above styled cause and demur to the complaint filed in said cause and for demurrer show unto this Honorable Court as follows:

- 1. That said complaint fails to state a cause of action.
- 2. That said complaint as filed consists of a rubber stamping on the summons.
- 3. That said complaint is not in accordance with the statutory form as set out by the Code of 1940 as amended and recompiled in 1958.
- 4. That said complaint fails to set out the terms of the written agreement alleged by the said plaintiff.
- 5. That said complaint fails to allege an assignment from Kirby Sales and Service to the alleged plaintiff.

Attorney for defendants.

I hereby certify that I have this _____ day of February, 1969, served a copy of the foregoing demurrers on Honorable Thomas E. Bryant, Jr., attorney for the plaintiff by depositing copy of same in the U. S. Mail, postage prepaid, properly addressed to his address, P. O. Drawer 2025, Mobile, Alabama, 36601.

Attorney for defendants.

FEB 5 1969

ALIGE J. JUEN REGISTER

A CORPORAT	NCE COMPANY OF MOBILE,	INC.,	X	
	Plaintiff		ĭ	IN THE CIRCUIT COURT OF
	Sin An Silli also dels ler also dia dia		X	
VS			X	BALDWIN COUNTY, ALABAMA
	HARVILLE and MARY			WO.
HARVILLE, separately and severally	sebaracery and		Ĭ	
	Defendants		X	
	Marateratics		X	

Come the defendants in the above styled cause and for answer to the amended complaint, shows as follows:

- 1. The allegations of the complaint are untrue.
- 2. That fraud from the inception is involved in the contract in that the seller agreed to pick up the item sold on request, after defendants tried the vacuum cleaner. That said defendants notified by phone and letter to the seller, Kirby Sales, who failed to carry out the contract agreement by picking up the said vacuum cleaner, but instead, sold the sales contract to plaintiff.

3. That said sales contract carries the agreement by the seller to re-purchase the contract from the said plaintiff.

Filed; may 14, 1969.